

# **CITY COUNCIL**

## **Meeting Agenda**

**REGULAR MEETING**  
**COUNCIL CHAMBERS**

**MONDAY, APRIL 8, 2013**  
**7:00 P.M.**

*The Regular Meetings of City Council are filmed and can be viewed LIVE while the meeting is taking place or at your convenience at any time after the meeting on the City's website at [www.ReadingPa.gov](http://www.ReadingPa.gov), under Info and Downloads/Meetings and Agenda.*

*All electronic recording devices must be located behind the podium area in Council Chambers and located at the entry door in all other meeting rooms and offices, as per Bill No. 27-2012*

### **1. OPENING MATTERS**

#### **A. CALL TO ORDER**

**B. INVOCATION:** Pastor Fred Opalinski, Trinity Lutheran Church

#### **C. PLEDGE OF ALLEGIANCE**

#### **D. ROLL CALL**

### **2. PROCLAMATIONS AND PRESENTATIONS**

- Council Commendation recognizing the 145<sup>th</sup> Anniversary of Mogel, Speidel, Bobb & Kershner, accepted by Fred Mogel, Stephen Price, and Sean O'Brien
- Council Commendation recognizing Fair Housing Month, accepted by Human Relations Commission members Kathryn Amaker and Reimundo Encarnacion

### **3. PUBLIC COMMENT – AGENDA MATTERS:**

*Citizens have the opportunity to address the Council, by registering with the City Clerk by 5 pm on the day of the scheduled Council meeting. All remarks must be directed to Council as a body and not to any individual Council member or public or elected official in attendance. Any person making personally offensive or impertinent remarks or any person becoming unruly while addressing Council may be called to order by the Presiding Officer and may be barred from speaking before Council, unless permission to continue speaking is granted by the majority vote of Council.*

*All comments by the public shall be made from the speaker's podium. Citizens attending the meeting may not cross into the area beyond the podium. Any materials to be distributed to Council must be given to the City Clerk before the meeting is called to order.*

Those commenting on agenda business shall speak at the beginning of the meeting and shall limit their remarks to 5 minutes. Those commenting on general matters shall speak after the legislative business is concluded and shall limit their remarks to 3 minutes. No comments shall be made from any other location except the podium, and anyone making "out of order" comments may be subject to removal. There will be no demonstration at the conclusion of anyone's remarks. Citizens may not ask questions of Council members or other elected or public officials in attendance.

#### **4. APPROVAL OF AGENDA**

**A. MINUTES:** Regular Meeting of March 25, 2013

**B. AGENDA:** Regular Meeting of April 8, 2013

#### **5. Consent Agenda Legislation**

**A. Award of Contract** - to Value Payment Systems, 2207 Crestmoor Road, Suite 200, Nashville, TN for the Credit Card Processing Services. Value Payments Systems will not be charging the City any fees associated with the project. A flat convenience fee of \$1.95 is applied to the transaction if it is less than \$78.00. If it is greater than \$78.00, then a fixed convenience fee of 2.5% is added to the transaction **(Purchasing)**

#### **6. ADMINISTRATIVE REPORT**

#### **7. REPORT FROM OFFICE OF THE AUDITOR**

#### **8. REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS**

None

#### **9. ORDINANCES FOR FINAL PASSAGE**

##### **Override Veto of Bill No. 18-2013**

**C. Bill No. 18-2013** - authorizing the Mayor to execute an amended Memorandum of Understanding between the Reading Berks Association of Realtors and the City of Reading to allow CORE properties to be marketed and sold as mixed use and owner occupied rentals **(Law) Introduced at the March 11 regular meeting; Approved at 3-25 regular meeting; Vetoed 4-3**

**A. Bill No. 16-2013** - amending the Charter Board Ordinance, Section V. Enforcement, Part C Board Information regarding the Confidentiality of Charter Board Decisions **(Councilor Goodman-Hinnershitz) Introduced at the March 11 regular meeting; Tabled at the March 25 regular meeting**

**B. Bill No. 19-2013** - authorizing the Mayor to execute the lease between the City of Reading and Egelman's Park Association for a portion of premises known as Egelman's Park

***(Man Dir) Introduced at the March 11 regular meeting; Tabled at the March 25 regular meeting***

## **10. INTRODUCTION OF NEW ORDINANCES**

**A. Ordinance** - amending the City of Reading Codified Ordinances Chapter 1 Administration, Part 5 Boards Departments Commissions Committees and Councils, Section E Citizens Advisory Board (CAB) by adjusting membership and amending the purpose **(Man Dir/Council Staff/Open Govt Comm)**

**B. Ordinance** - amending the Fire Pension Plan **(Law)**

**C. Ordinance** - amending the Police Pension Plan **(Law)**

**D. Ordinance** - amending the Officers and Employees Pension Plan **(Law)**

**E. Ordinance** - amending the New Officers and Employees Pension Plan **(Law)**

## **11. RESOLUTIONS**

**A. Resolution** - reappointing Dan Luckey to the Redevelopment Authority **(Nom & Appts)**

**B. Resolution** - reappointing Eddie Moran to the Recreation Commission **(Nom & Appts)**

**C. Resolution** - appointing William Thompson II to the Diversity Board **(Nom & Appts)**

**D. Resolution** - reappointing Ann Sheehan to the Citizens Advisory Board **(Nom & Appts)**

## **12. PUBLIC COMMENT – GENERAL MATTERS**

## **13. COUNCIL BUSINESS / COMMENTS**

## **14. COUNCIL MEETING SCHEDULE**

### **Monday, April 8**

*Committee of the Whole – Council Office – 5 pm*

*Regular Meeting – Council Chambers – 7 pm*

### **Monday, April 15**

*Public Works, Public Safety, Neighborhood Services Committee – Council Office – 5 pm*

*Finance, Budget, Audit Committee – Council Office – 5 pm*

*Work Session – Penn Room – 7 pm*

### **Monday, April 22**

*Committee of the Whole – Council Office – 5 pm*  
*Regular Meeting – Council Chambers – 7 pm*

## **15. BAC AND COMMUNITY GROUP MEETING SCHEDULE**

### **Monday, April 8**

Fire Civil Service Board – Penn Room – 4 pm

6<sup>th</sup> & Amity Neighborhood & Playground Assn – 6<sup>th</sup> & Amity Fieldhouse – 6:30 pm

### **Tuesday, April 9**

Water Authority Workshop – Water Authority Office – 4 pm

District 11 Crime Watch – Orthodox Presbyterian Church – 7 pm

### **Wednesday, April 10**

Zoning Hearing Board – Council Chambers – 5:30 pm

Center City Community Organization – Holy Cross Church – 6 pm

### **Thursday, April 11**

Police Pension Board – Penn Room – 10 am

### **Sunday, April 14**

College Heights Community Council – Nativity Lutheran Church – 7 pm

### **Monday, April 15**

Library Board – 113 S 4<sup>th</sup> St – 4 pm

### **Tuesday, April 16**

Charter Board – Penn Room – 7 pm

HARB – Planning Conference Room – 7 pm

### **Wednesday, April 17**

Redevelopment Authority – Redevelopment Authority Office – 5:30 pm

### **Thursday, April 18**

Blighted Property Review Committee – Council Chambers – 6 pm

### **Monday, April 22**

DID Authority – 645 Penn St 5<sup>th</sup> Floor - noon

**City of Reading City Council  
Regular Business Meeting  
Monday, March 25, 2013**

Council President Francis G. Acosta called the meeting to order.

Councilor Randy Corcoran gave the invocation.

All present pledged to the flag.

**ATTENDANCE**

Council President Acosta  
Councilor Corcoran, District 1  
Councilor Goodman-Hinnershitz, District 2  
Councilor Sterner, District 3  
Councilor Marmarou, District 4  
Councilor Reed, District 5  
City Auditor D. Cituk  
City Solicitor C. Younger  
Managing Director C. Snyder  
City Clerk L. Kelleher  
Mayor V. Spencer

**PROCLAMATIONS AND PRESENTATIONS**

A Council Commendation recognizing Greek Independence Day was accepted by the Greek Community.

**PUBLIC COMMENT**

Council President Acosta announced that two citizens were registered to address Council on non-agenda matters. He inquired if any Councilor objected to suspending the rule requiring non-agenda comment at the end of the meeting. As no one objected the rule requiring non-agenda comment at the end of the meeting was suspended. Council President Acosta reminded the citizens registered to speak about the remaining public speaking rules.

**Michelle Reese, of South 19<sup>th</sup> Street**, stated that she received six Quality of Life violations at her residence and missed the appeals periods due to health issues. She expressed the belief that the program is unfavorable to property owners who pay their taxes and do their best to keep their properties in good condition. She stated that if she believed she was guilty she would have no problem paying the fine; however she stated that she disagrees with the charges.

**Dustin Reese, of South 19<sup>th</sup> Street**, expressed the belief that he and his wife were given the run around when calling City Hall to inquire about the Quality of Life tickets. He stated that his conversation with Codes managers was unsuccessful. He stated that his calls to the Mayor's office were not returned. He expressed the belief that he and his wife were singled out due to the repeated succession of the Quality of Life tickets they received for various infractions. He stated that the inspector could have issued tickets for the various issues on the same visit. He expressed the belief that this program was created to clean the City not to be a revenue generator.

## **APPROVAL OF THE AGENDA & MINUTES**

Council President Acosta called Council's attention to the minutes for the March 11<sup>th</sup> Regular Meeting of Council and March 7<sup>th</sup> Special Meeting and the agenda for this meeting, including the legislation listed under the Consent Agenda heading.

**Councilor Sterner moved, seconded by Councilor Marmarou, to approve the minutes from the March 11<sup>th</sup> Regular Meeting and March 7<sup>th</sup> Special Meeting and the agenda for this meeting, including the legislation listed under the consent agenda. The motion was approved unanimously.**

## **Consent Agenda**

**A. Resolution 20-2013** – authorizing the disposition of the following records in the City Clerk's Office in accordance with City of Reading Records Retention Policy and Document Retention Schedule (**Council Staff**)

- 1962, 1967 & 1973– Corbit's Incorporated
- 1995 – Cogle's Recycling, Incorporated
- 1986 to 1996 – Coyne, George S. Chemical Company, Inc.
- 1984 to 1990 – Crime Victim's Center
- 1982 to 1985 – Crime Watch Association
- 1968 to 1970 – Richard Cripps
- 1956 – Leon and Angelina Crupi
- 1986 – Crane Electric Supply Company
- 1985 – Credit Bureau of Reading/Berks County
- 1978 – Crest Truck Equipment Company

**B. Award of Contract** – to the Animal Rescue League for animal control and shelter services for 2013 thru 2017 not to exceed \$693,153.00 over a five year period (**Admin Serv & Law**)

**C. Resolution 21-2013** - authorizing the Mayor to sign and submit an application for a PA DCNR Community Conservation Partnerships Program Grant for a Phase II rehabilitation project at the 11th & Pike Playground (**Public Works**)

## **ADMINISTRATIVE REPORT**

Mayor Spencer read his report distributed to Council at the meeting, as summarized below.

- Provided an update on the follow up to the Crime Summit meeting in Council Chambers on March 11<sup>th</sup>
- Reported on his meeting with the Centre Park community
- Described the start of the CitiStat program that will streamline administrative reporting
- Described the process to select a new Parking Authority Executive Director

Councilor Goodman-Hinnershitz questioned the next steps to the action items that developed at the March 11<sup>th</sup> Crime Summit follow up meeting. Mayor Spencer stated that he has a meeting to discuss the action items with the Police Chief, District Attorney and Commissioner Leinbach.

Councilor Marmarou stated that the Crime Status meeting conducted by the Police Department last Monday was an excellent forum that helped members of the public understand how the Department handles all levels of criminal activity.

## **AUDITOR'S REPORT**

City Auditor Cituk read the report distributed to Council. In summary:

- 2013 Admissions Tax collection
- 2013 Real Estate Transfer Tax collection
- Hiring Beth Zimmerman to fill the vacant Auditing Coordinator position

## **REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS**

None.

## **ORDINANCES FOR FINAL PASSAGE**

**A. Bill No. 16-2013** - amending the Charter Board Ordinance, Section V. Enforcement, Part C Board Information regarding the Confidentiality of Charter Board Decisions (**Councilor Goodman-Hinnershitz**) *Introduced at the March 11 regular meeting*

**Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to table Bill No 16-2013.**

**Bill No. 16-2013 was tabled by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President**

**- 6**

**Nays: None -0**



**B. Bill No. 17-2013** - amending Chapter 11, Housing, of the Codified Ordinances of the City of Reading, by dividing the Housing Ordinance into two parts: 1) Rental and Vacant Property and 2) Disruptive Conduct and by adjusting language in each part as necessary as attached in Exhibit A **(Law)** *Introduced at the March 11 regular meeting*

**Councilor Corcoran moved, seconded by Councilor Reed, to enact Bill No 17-2013.**

Managing Director Snyder stated that this ordinance does not create new terms or regulations; but instead, provides clarification by separating various sections out.

**Bill No. 17-2013 was enacted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President**

**- 6**

**Nays: None -0**

**C. Bill No. 18-2013** - authorizing the Mayor to execute an amended Memorandum of Understanding between the Reading Berks Association of Realtors and the City of Reading to allow CORE properties to be marketed and sold as mixed use and owner occupied rentals **(Law)** *Introduced at the March 11 regular meeting*

**Councilor Marmarou moved, seconded by Councilor Goodman-Hinnershitz, to enact Bill No 18-2013.**

Councilor Corcoran stated that this amendment will allow the CORE Committee to consider owner-occupied mixed use options for CORE properties.

Council President Acosta agreed with the need to adjust the terms of the program to meet the needs of various real estate transactions.

Councilor Goodman-Hinnershitz noted the positive partnership with the Reading Berks Association of Realtors.

**Bill No. 18-2013 was enacted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President**

**- 6**

**Nays: None -0**

**D. Bill No. 19-2013** - authorizing the Mayor to execute the lease between the City of Reading and Egelman's Park Association for a portion of premises known as Egelman's Park **(Man Dir)** *Introduced at the March 11 regular meeting*

**Councilor Marmarou moved, seconded by Councilor Reed, to table Bill No 19-2013.**

**Bill No. 19-2013 was tabled by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President**

**- 6**

**Nays: None -0**

**E. Bill No. 20-2013** - authorizing the Mayor of the City of Reading, PA to execute any and all documents to effectuate the consent to the transfer of certain real estate and the related assumption of the associated loan obligation between Goggle Works Ventures, L.P., and Goggle Works, LLC (**Man Dir**) *Introduced at the March 11 regular meeting*

**Councilor Corcoran moved, seconded by Councilor Reed, to enact Bill No 20-2013.**

Managing Director Snyder stated that the Goggle Works Ventures L.P. and Goggle Works LLC have taken a HUD loan of \$1.8M to fund this project. This loan will be repaid by the organization. She stated that the transaction was scrutinized by the Administration before it was referred for Council action and that the transfer of real estate will protect the City's position.

**Bill No. 20-2013 was enacted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President**

**- 6**

**Nays: None -0**

**F. Bill No. 21-2013** - amending the 2013 Position Ordinance by changing the title of an employee in the Human Resources Division, by reducing one Property Maintenance Inspector and one Aide and adding two Inspections Clerks, and adding two Municipal Aides in the CSC (**Man Dir**) *Introduced at the March 11 regular meeting*

**Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to enact Bill No 21-2013.**

Managing Director Snyder stated that this amendment shifts titles and positions and adds two additional Municipal Aide positions in the CSC to perform document digitization for the Waste Water Treatment Plant. She stated that the salaries will be charged to the Sewer Enterprise Fund.

**Bill No. 21-2013 was enacted by the following vote:**

**Yeas: – Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta,**

**President - 6**

**Nays: None -0**

## **INTRODUCTION OF NEW ORDINANCES**

No ordinances were introduced.

## **RESOLUTIONS**

**A. Resolution 22-2013** – appointing Frank Denbowski to the Charter Review Commission (Nom & Appts)

**Councilor Marmarou moved, seconded by Councilor Corcoran, to adopt Resolution No. 22-2013.**

**Resolution No. 22 -2013 was adopted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President  
- 6**

**Nays: None -0**

**B. Resolution 23-2013** – appointing Randy Corcoran to the Charter Review Commission (Nom & Appts)

**Councilor Marmarou moved, seconded by Councilor Goodman-Hinnershitz, to adopt Resolution No. 23-2013.**

**Resolution No. 23 -2013 was adopted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President  
- 6**

**Nays: None -0**

**C. Resolution 24-2013** – appointing Marcia Goodman-Hinnershitz to the Charter Review Commission (Nom & Appts)

**Councilor Sterner moved, seconded by Councilor Reed, to adopt Resolution No. 24-2013.**

**Resolution No. 24 -2013 was adopted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President  
- 6**

**Nays: None -0**

**D. Resolution 25-2013** – appointing Carl Geffken to the Charter Review Commission (Nom & Appts)

**Councilor Reed moved, seconded by Councilor Goodman-Hinnershitz, to adopt**

**Resolution No. 25-2013.**

**Resolution No. 25 -2013 was adopted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President  
- 6**

**Nays: None -0**

**E. Resolution 26-2013 – appointing John Slifko to the Charter Review Commission (Nom & Appts)**

**Councilor Reed moved, seconded by Councilor Corcoran, to adopt Resolution No. 26-2013.**

**Resolution No. 26-2013 was adopted by the following vote:**

**Yeas: Corcoran, Goodman-Hinnershitz, Marmarou, Reed, Sterner, Acosta, President  
- 6**

**Nays: None -0**

**F. Resolution 27-2013 - appointing Sam Ruchlewicz to the Charter Review Commission (Nom & Appts)**

**Councilor Marmarou moved, seconded by Councilor Sterner, to adopt Resolution No. 27-2013.**

**Resolution No. 27 -2013 was NOT adopted by the following vote:**

**Yeas: Marmarou, Sterner, Acosta, President - 3**

**Nays: Corcoran, Goodman-Hinnershitz, Reed - 3**

City Solicitor Younger expressed the belief that the lack of approval for this appointment may be a nullity.

## **COUNCIL COMMENT**

Councilor Sterner congratulated those honored this evening. He agreed with the need to re-evaluate the Quality of Life program.

Councilor Goodman-Hinnershitz noted the vast number of QoL tickets issued monthly in District 2 and her difficulty in responding to each constituent who complains about this program. She suggested that the Administration work with Council to develop a policy about this program.

Councilor Corcoran congratulated the Greek community. He noted that St Constantine and

Helen's Church is located within District 1.

Councilor Marmarou expressed the belief that Council and the Administration need to begin working together, rather than fighting. He also expressed his belief in the candidate he nominated for the Charter Review Commission.

Councilor Reed described the good appeals process that operates within the Quality of Life ticketing program.

Councilor Reed also described the threatening letters around the District 5 political race she recently received.

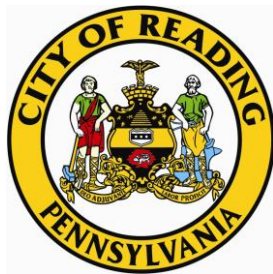
Council President Acosta assigned the Quality of Life ticketing program evaluation to the Housing Committee. He agreed that this program was meant to create a clean City. He suggested applying a common sense approach.

Council President Acosta stated that he attended the meeting with the Centre Park community last week and he noted the importance and strength of communities that are organized.

Council President Acosta reviewed the meeting schedule and noted that a special meeting will be held on Tuesday, April 2<sup>nd</sup> at 5 pm regarding committee agendas and Charter Review Commission appointments and a leadership meeting with the Reading School District on Wednesday, April 3 at 5:30 pm.

**Councilor Marmarou moved, seconded by Councilor Reed, to adjourn the regular meeting of Council.**

*Respectfully submitted by Linda A. Kelleher CMC, City Clerk*



# AGENDA MEMO

## DEPARTMENT of ADMINISTRATIVE SERVICES

**TO:** City Council  
**FROM:** Tammi Reinhart, Purchasing Coordinator  
**PREPARED BY:** Tammi Reinhart, Purchasing Coordinator  
**MEETING DATE:** April 8, 2013  
**AGENDA MEMO DATE:** April 8, 2013  
**RECOMMENDED ACTION:** Awarding of Contract for the Credit Card Processing Services.

### RECOMMENDATION,

The recommendation is to award the contract to Value Payment Systems, 2207 Crestmoor Road, Suite 200, Nashville, TN.

### BACKGROUND

Proposals for credit card processing services were received on December 14, 2012. A selection committee made up of 4 members reviewed the proposals and conducted three interviews. Value Payments Systems will not be charging the City any fees associated with the project. A flat convenience fee of \$1.95 is applied to the transaction if it is less than \$78.00. If it is greater than \$78.00, then a fixed convenience fee of 2.5% is added to the transaction.

### BUDGETARY IMPACT

This project has not cost to the City.

### PREVIOUS ACTION

None

### SUBSEQUENT ACTION

Formal action by Council is needed to award the contract at the April 8, 2013 meeting.

### RECOMMENDED BY

Mayor, Managing Director, Director of Administrative Services, Controller and Purchasing Coordinator.

### RECOMMENDED MOTION

Approve/Deny the recommendation for the credit card processing services to be awarded to Value Payment Systems.



**OFFICE OF THE  
MAYOR  
VAUGHN D. SPENCER**

## **CITY OF READING, PENNSYLVANIA**

OFFICE OF THE MAYOR  
ROOM 2-33  
815 WASHINGTON STREET  
READING, PA 19601-3690  
(610) 655-6234  
MAYOR@READINGPA.ORG

### **MEMORANDUM**

**TO:** City Council  
**FROM:** Vaughn D. Spencer, Mayor  
**SUBJECT:** Mayoral Veto of Bill #18-2013  
**DATE:** April 3, 2013

I have decided to veto Bill #18-2013, amending the Memorandum of Understanding between the Reading Berks Association of Realtors and the City of Reading. This ordinance contradicts the fundamental goal of the CORE housing initiative regarding the marketing and sale of these properties for single-family owner occupied use only. The ordinance also deviates from the proposed MVA strategies for the City of Reading.

Signature

A handwritten signature in black ink, which appears to read "Vaughn D. Spencer", is written over a horizontal line.



FAX: (610) 655-6697 TDD: (610) 655-6442

ORDINANCE NO. 18 - 2013

**AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE READING BERKS ASSOCIATION OF REALTORS AND THE CITY OF READING TO ALLOW CORE PROPERTIES TO BE MARKETED AND SOLD AS OWNER OCCUPIED SINGLE UNITS OR OWNER OCCUPIED RESIDENTIAL OR MIXED USE RENTALS.**

**THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**Whereas**, the Reading Berks Association of Realtors proposed the Community Reinvestment (CORE) Program to City Council, the Administration and the Reading Redevelopment Authority in early 2011; and

**Whereas**, after several work group meetings with the Reading Berks Association of Realtors, the City of Reading recognized that the Core Program could assist the City of Reading in improving its housing stock and could help to reduce the number of vacant and blighted properties within the City of Reading; and

**Whereas**, the current Memorandum of Understanding between the Reading Berks Association, Reading Redevelopment Authority and the City of Reading restrict marketing and sale of Core properties to residential use only; and

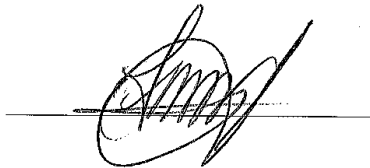
**Whereas**, the City of Reading permits both residential or mixed use properties in various zoning districts as per the City of Reading's Zoning Ordinance.

**NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. The Mayor is authorized to execute the amended Memorandum of Understanding as attached in Exhibit A that allows CORE properties to be marketed and sold as both owner occupied single units or owner occupied residential or mixed use rentals.

SECTION 2: This Ordinance shall become effective in ten (10) days after its adoption and approval by the Mayor in accordance with Section 219 of the City of Reading Home Rule Charter.

Enacted March 8<sup>th</sup>, 2013

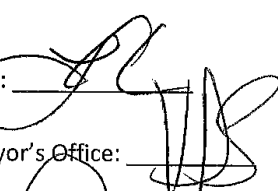





Council President

Attest:

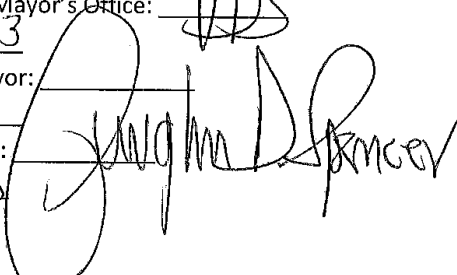
  
City Clerk

Submitted to Mayor: 

Date: 3/26/13

Received by the Mayor's Office: 

Date: 3/26/13

Approved by Mayor: 

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: 4/3/13

# “Exhibit A”

LPG-CORE

## LOCAL PROJECT GUIDELINES

This form recommended, approved AND RESTRICTED for use  
in the CORE Project of the Pennsylvania Association of REALTORS® (PAR).

Selling Municipality/Entity: City of Reading

By signing below, the individual(s) preparing these local project guidelines on behalf of the municipality or entity acknowledge having received and read the Local Project Guidelines Information and Instructions Document (Form LPG/I-CORE) provided by the members of the local CORE Project committee, and further acknowledge that any REALTORS® involved in discussions regarding these guidelines and criteria did not engage in any anti-competitive behavior or collaboration during this process.

Signature \_\_\_\_\_  
Mayor

Signature \_\_\_\_\_  
RRA Executive Director

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_  
President R-BAR

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

### 1. Types of Properties to be Sold

- Existing single-family residential suitable for occupation ( %)
- Existing single-family residential in need of substantial renovations ( %)
- Existing multi-family ( %)
- Vacant lots (single) ( %)
- Vacant lots suitable for large-scale development ( %)
- Existing or potential commercial/industrial sites ( %)

### 2. Selecting Eligible Listing Agents

- A) Number of Potential Listing Agents

- Multiple agents will be eligible to list properties (e.g., a pool of eligible agents will be selected)
- A single agent will be selected to handle all listings

**B) When to Select Agents**

- The eligible agent(s) will be selected prior to the selection of properties
- A listing agent will be selected each time a property is going to be sold

**C) Membership & Educational Criteria**

- |  |   |
|--|---|
| — All listing agents must be REALTOR® Members                    | Listing agents do not have to be REALTOR® members       |
| — All listing agents must earn the CORE designation              | Listing agents do not have to earn the CORE designation |
| — Listing agents must meet the following additional criteria:    |   |
| Full time  |   |
| Three years experience   |   |
| Member of Reading-Berks Association                              |   |
| A considerable amount of transactions within the City of Reading |   |

**3. Selecting Properties to List**

**A) Describe your local goals for the CORE Project:**

Through the use of a CORE Task Force, the City aims to

- Restore properties to productive use;
- Encourage purchase by owner-occupants;
- Encourage planned development; and
- Enhance the tax base

**B) Describe the process for selecting the properties to be listed through the CORE Project:**

The City will provide a list of selected properties for determination. The CORE Task Force will meet at least quarterly to discuss this list.

**4. Pricing Properties**

- We will request a comparative market analysis (“CMA”) from multiple prospective listing agents
- We will obtain one CMA from the selected listing agent
- We will *not* use CMAs, but will obtain full appraisals for each property from certified appraisers
- We will *not* use CMAs or appraisals, and will establish listing prices internally

Describe the process for selecting providers of CMAs/appraisals, and for establishing the listing price: (NOTE: state law says real estate licensees may not provide CMAs if they do not have a realistic opportunity to obtain the listing.)

CMA will be given by listing agent. The listing price will take into account the CMA as well as the rehab cost. The rehab costs will be held by the lender and paid to the buyer as various portions of the rehab is completed.

**5. How to Distribute Listings to Listing Agents**

Describe the process for distributing listings among prospective listing agents:

**Selection will be completed on a rotating basis based on an initial interview.**

**6. Fees and Listing Broker Terms/Conditions**

**A) Standard Contract/terms**

- We will establish standard listing terms for all listings  
We will negotiate terms individually for each listing
- We will use the PAR listing contract modified for CORE (Form XLS-CORE)  
We will use whatever contract is presented by the listing agent  
We will use local counsel to draft our own proprietary listing contract

**B) Listing Period**

(NOTE: Listing period can never be longer than 1 year, and cannot have an automatic extension)

- Listing Period will be the same for all listings: 1 year  
Listing Period will be negotiated for each listing  
Listing Period will differ based on type of listing (e.g., land, single-family, commercial, etc.)  
Describe the listing period for each type of property:

**C) Broker's Fee (total fee, including cooperating broker compensation)**

- Listing Broker's Fee will be the same for all listings: \_\_\_\_\_
- Listing Broker's Fee will be negotiated for each listing
- Listing Broker's Fee will differ based on type of listing (e.g., land, single-family, commercial, etc.)

Describe Listing Broker's Fee for each type of property:

The Broker's Fee will based on a hybrid percentage rate/flat fee

**1) Cooperating Broker Compensation (a portion of total Broker's Fee, above)**

- Cooperating Broker Compensation will be the same for all listings: \_\_\_\_\_
- Cooperating Broker Compensation will be negotiated for each listing
  - Cooperating Broker Compensation will differ based on the type of listing (e.g., land, single family, commercial, etc.)

Describe Cooperating Broker Compensation for each type of property:

D) Protection Period

- Protection Period will be the same for all listings: 60 days
  - Protection Period will be negotiated for each listing
  - Protection Period will be different based on the type of listing (e.g., land, single-family, commercial, etc.)
- Describe Protection Period for each type of property:

E) Additional Terms and Conditions

**7. MLS Exposure**

- CORE properties will be included in the Multiple Listing Service (MLS). Listings will include one or more photographs and the street address of the property.

CORE properties will not be included in the MLS. Failure to include the property in the MLS may reduce the number of potential buyers who are made aware of the property.

**8. Buyer Criteria**

A) Criteria for Buyer Representatives

- We will not restrict which agents may work as buyer agents.
  - Buyer representatives should review CORE educational materials available to buyers
  - Buyer representatives should review the following information provided by sellers:

We will instruct listing agents to ONLY present us with offers from buyer agents who meet the following criteria (and from no others):

B) Buyer Preferences

- We will offer preferences to owner-occupants
  - Exclusive listing period for owner-occupants: \_\_\_\_\_ Days
  - Other preferences, benefits or incentives available only to owner-occupants (list):
    - Neighborhood Housing Programs
    - Reduce Transfer Tax from 3.5% to 1%
    - Retap
    - Building and Trades permit reduced from 1.5% to 1%

Other preferences, benefits, incentives or limitations based on type of buyer (identify types of buyers and the limitations/benefits):

C) Buyer Eligibility Guidelines

1. — Buyers should complete CORE educational materials for buyers
  - Buyers must submit a completed PAR Buyer's Financial Information form (Form BFI-CORE)
  - We may attach a locally prepared addendum with additional questions to be answered
  - Buyers must submit a qualification form developed by local counsel
2. Buyers must submit the following information in addition to, or instead of, a pre-drafted form:

Describe the overall criteria that will be used to screen potential buyers. Include items that will automatically disqualify buyers, and as much as possible, describe how other criteria will be evaluated:

~~All sales are intended for residential purposes only.~~ Buyers will be limited to individuals looking to buy homes who intend to rehab the properties and use them as owner occupied single units or owner occupied ***residential or mixed use rentals as approved by the Zoning Administrator/Zoning Hearing Board.*** The City will not consider buyers who are tax delinquent, have had properties determined or certified as blighted or who are or have been otherwise repeatedly in violation of any City ordinances.

**9. Governmental or Private Incentives**

The following incentives may be available to purchasers (please identify the program, benefit, restrictions (if any) and where to find additional information):

- NHS: Home Ownership Program – Available for first time home buyers. This programs provides assistance with down payment/closing costs as well as up to 20% purchase price (2<sup>nd</sup> mortgage)
- NHS: Keystone Renovate and Repair Program - Must own the home. This program will help finance rehab up to \$35,000. Does not have to be low income.
- State programs –Subject to availability
- DCED – Subject to availability
- KOZ – Subject to availability

**10. Rehabilitation, occupancy and resale restrictions**

- There will be rules/restrictions on rehabilitation (timelines, criteria, etc.)  
Describe the review process and any criteria to be applied (e.g., what plans should include, where should plans be submitted, what criteria will be used to review them, and whether pre-approval will be necessary for a fully executed purchase agreement):

The City will incorporate into each individual sales agreement the rehab work that needs to be performed including the timelines and criteria for the work.  
Zoning plans must be submitted directly to the Zoning Hearing Board.

***The City of Reading One Stop program is available where appropriate.***

— Occupancy restrictions/requirements will be imposed for one unit (e.g., limits on rental use)

Describe restrictions/requirements, including any sanctions for non-compliance:

Restriction –Owner occupied including owner occupied rental

If the rehab work is not completed in a timely fashion, there will be a one-time only 90 day extension granted upon request. Otherwise, the property will revert back to the City within 1 year. A financial damages clause for non-compliance will be included in the sales agreement.

Resale restrictions/requirements will be imposed (e.g., resale purchasers must comply with the same restrictions as the original purchaser)

Describe restrictions/requirements, including any sanctions for non-compliance:

There will be a Deed restriction of owner occupancy including owner occupied rentals and a continuing reversion clause placed on all properties. An owner can apply to the City of Reading to have the Deed restriction lifted after the tax abatement period has ended. Should a property be found to not have an owner occupancy use, the City will petition the Court of Common Pleas to have the property reverted back to the City.

#### **11. Standard Forms**

— We will use the following PAR Standard Forms:

- Listing Contract (Form XLS-CORE)
- Seller Property Disclosure (Form SPD)
- Hold Harmless Agreement (Form HHA-CORE)
- Buyer's Financial Information (Form BFI-CORE)
- Agreement of Sale (Form ASR-CORE) and related addenda

---

We will use the following forms drafted by local counsel:

---

---

---

#### **12. Seller Negotiation Procedures**

Please include both names and titles to help identify specific individuals

Written offers will be presented to: Solicitor

Initial offers will be responded to within: 5 days

Counteroffers may be made by: Solicitor

Criteria for counteroffers: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Final approval/rejection by: City Council/Redevelopment Authority within 30 days

Process for approval/rejections (eg., vote of board or committee, approval by single individual, etc.):

Approvals or rejections will be by majority vote of City Council and the Redevelopment Authority.

Estimated time period for final approval/rejection (e.g., X days from submission, voting body meets only once a month, etc.): Approximately 35 days

---

**ADDITIONAL INFORMATION**



BILL NO. \_\_\_\_\_ - 2013

AN ORDINANCE

AMENDING THE CHARTER BOARD ORDINANCE, SECTION V. ENFORCEMENT,  
PART C BOARD INFORMATION REGARDING THE CONFIDENTIALITY OF  
CHARTER BOARD DECISIONS

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

Amending The Charter Board Ordinance, Section V. Enforcement, Part C Board Information regarding the confidentiality of Charter Board decisions as attached stated below.

**C. Board Information.**

1. Confidentiality of Board Information. All Board proceedings and records relating to an investigation shall be confidential until a final determination is made by the Board. The final order shall become a public record ~~once the subject has exhausted all appeal rights or has failed to timely exercise such rights~~ at the time the Board renders its decision and issues a Final Order.

All other records and proceedings shall remain confidential except:

- a) as necessary to effect due process;
- b) for the purpose of seeking advice of legal counsel;
- c) for the purpose of filing an appeal from a final order;
- d) for hearings conducted in public according to Section V(A)(7);

- e) for communicating with the Board or its staff, in the course of an investigation or hearing or before a final determination is made by the Board;
- f) for consulting with law enforcement officials for the purpose of initiating, participating in, or responding to an investigation, or hearing;
- g) for testifying under oath before a governmental body;
- h) for information relating to a complaint, investigation, or hearing which is disclosed by the subject of such complaint, investigation, or hearing;
- i) for the divulgence by individuals who are interviewees to confidential Board proceedings as to information that was already in their possession or as to their own statements;
- j) for the publication or broadcast of information legally obtained by the news media regarding a confidential Board proceeding;

## **2. Board Records.**

- a) All Final Orders of the Board shall be kept on public file at the Office of the City Clerk. The City Clerk shall also file copies of all Final Orders of the Board with the Law Library of Berks County Court of Common Pleas.
- b) All confidential records and proceedings of the Board shall be kept on closed file at the Office of the City Clerk.

**SECTION 2:** All relevant ordinances, regulations and policies of the City of Reading, Pennsylvania not amended per the attached shall remain in full force and effect.

**SECTION 3:** If any section, subsection, sentence or clause of this ordinance is held for any reason to be invalid such decision shall not affect the validity of the remaining portions of the Ordinance.

**SECTION 4:** This Ordinance shall become effective in ten (10) days after passage.

Enacted \_\_\_\_\_, 2013

\_\_\_\_\_  
Council President

Attest:

\_\_\_\_\_  
City Clerk

(Goodman-Hinnershitz)

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

**BILL NO. \_\_\_\_\_-2013**

**AN ORDINANCE**

**AUTHORIZING THE MAYOR TO EXECUTE THE LEASE BETWEEN THE CITY OF READING AND EGELMAN'S PARK ASSOCIATION FOR A PORTION OF PREMISES KNOWN AS EGELMAN'S PARK.**

**WHEREAS**, the City of Reading is the legal owner of certain property known as Egelman's Park situate in the City of Reading, Berks County, PA; and

**WHEREAS**, the City of Reading desires to lease a portion of the aforementioned premises for its use for various recreational purposes; and

**WHEREAS**, the City of Reading finds that leasing said premises to Egelman's Park Association for said purpose is in the best interests of the City of Reading,

**NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The Mayor is authorized to execute any and all documents to facilitate and effectuate the lease between the City of Reading and Egelman's Park Association for a portion of certain property known as Egelman's Park, Reading, Berks County, Pennsylvania as set forth in the attachment.

**SECTION 2.** This Ordinance shall be effective ten (10) days after passage.

Enacted \_\_\_\_\_, 2013

\_\_\_\_\_  
President of Council

Attest:

\_\_\_\_\_  
City Clerk

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_



# CITY OF READING

## COMMERICAL LEASE AGREEMENT

---

The City of Reading provides various Park and Recreation facilities throughout the City for the use and enjoyment of its residents. It is the goal of the City to make the facilities available for use by organizations and individuals for non-profit recreational purposes. The City's Parks are open to the public from dawn to dusk & individuals, or groups, may reserve the use of facilities.

### RECITALS

City of Reading, hereafter "LESSOR" is the owner of the municipal park facility known as Egelman's Park, located within the City of Reading; and

Egelman's Park Association, hereafter "LESSEE" is engaged in the business of managing organized youth athletic leagues that for the past twenty (20) years have operated on Egelman's Field, within Egelman's Park; and

LESSOR and LESSEE have had a business relationship for more twenty (20) years and wish to continue that relationship for another lease term, as specified in this AGREEMENT.

In consideration of the mutual promises herein contained, acknowledged and accepted without reservation by the LESSOR and LESSEE, the City of Reading and \_\_\_\_\_ hereby mutually undertake, promise, and agree to the following:

### AGREEMENT

This COMMERCIAL LEASE AGREEMENT ("AGREEMENT") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by and between the City of Reading ("LESSOR") and \_\_\_\_\_ ("LESSEE").

### ARTICLE I – LEASE OF PREMISES

- 1.1 Leased Premises: Subject to the terms and conditions of this AGREEMENT, LESSOR hereby grants to LESSEE an exclusive Lease for Egelman's Field and for the adjacent concession facility, (hereafter the "PREMISES"), for the operation and management of youth athletics.
- 1.2 Improvements and Additions: LESSEE hereby accepts the PREMISES from LESSOR in its present condition. LESSEE shall not cause or permit any changes, alterations, repairs, painting, staining, signage etc., to the PREMISES unless approved by the City. Any subsequent alterations, additions, improvements, etc. upon the PREMISES shall be made with the express written approval by the City, and thereafter maintained at the expense of LESSEE in accordance with the terms and conditions of this AGREEMENT. Any authorized alterations, additions, improvements; etc made to the PREMISES shall be considered the LESSOR's exclusive property.



- 1.3 Assignment: LESSEE may not assign, in whole or in part, this AGREEMENT or its duties, obligations, or privileges without the prior written consent of the City.

## **ARTICLE II – LEASE TERM**

- 2.1 Term: This AGREEMENT shall begin on the first (1) day of June, 2013 and end on thirty-first (31) day of December, 2013. It is agreed between the parties that the LESSEE is allowed to operate its charitable nonprofit recreational/athletic association on the PREMISES and is responsible for the operation and day-to-day use of the land and facilities leased for the duration of this AGREEMENT. The City, however, reserves the right to grant use of the land and facilities leased on those days, and at those times, which have not been scheduled by the LESSEE.
- 2.2 Termination: LESSOR expressly reserves the right to terminate this AGREEMENT without cause by delivering written notice to the LESSEE's address on file.
- 2.3 Default: If LESSEE is in default of any terms and conditions of this AGREEMENT or violates any laws of the United States, the Commonwealth of Pennsylvania, or applicable City of Reading ordinances, and thereafter fails to correct the performance constituting breach upon five (5) days of written notice, the LESSOR may exercise any rights or remedies for such default that LESSOR may have at law or in equity, including the right to terminate this AGREEMENT.
- 2.4 Holding Over: If LESSOR permits the LESSEE to occupy the PREMISES beyond the AGREEMENT, or past the date of Termination, the tenancy thereafter shall be on a period of a three (3) month basis and remains subject to all terms and conditions of this AGREEMENT.

## **ARTICLE III – FEES, EXPENSES, & RECORDS**

- 3.1 Rent: For the privileges granted the LESSEE herein, LESSEE is not required to pay rent to the LESSOR for the duration of this AGREEMENT.
- 3.2 Utilities: LESSEE is responsible for the monthly payment of electric associated with their use and operation of UTILITY ACCOUNTS, defined as (1) the lights on the ball field; and (2) and the concession kitchen at the Field, on the PREMISES for the duration of the AGREEMENT, and tenancy. These locations are separately metered and LESSEE is responsible for them during the Term of this AGREEMENT, should a circumstance require the LESSOR to use the equipment associated with the UTILITY ACCOUNTS, the City is responsible for those expenditures and will reimburse LESSEE for costs associated with their use. Failure to make monthly payments to pay LESSOR for UTILITY ACCOUNTS by LESSEE constitutes Default of this AGREEMENT. All remaining utilities expenses, excluding UTILITIES ACCOUNTS, will be paid by the LESSOR.
- 3.3 Records: LESSEE shall keep an accurate set of financial records, pursuant to its business, and shall furnish to the City/LESSOR monthly all information deemed pertinent to its operation and business organization including, but not limited to, legal documentation proving LESSEE'S legal existence, resolutions authorizing actions of designated individuals to enter into this AGREEMENT, financial statements, and any federal/state filings. Moreover, LESSOR shall be given full access to LESSEE's complete financial and business records, including schedules, for all reasons related to the contractual relationship between the parties. FURTHER, LESSEE shall provide to LESSOR a

monthly summary of activities and copies of its monthly bank account statements. Failure of LESSEE to provide to LESSOR said documents shall constitute a Default.

#### **ARTICLE IV – USE OF THE PREMISES**

- 4.1 Permissible Uses: During the Term of this AGREEMENT, LESSEE shall use the PREMISES for the purpose of operating a non-profit recreational/athletic association comprised in part by the East Reading Athletic Association, Central Catholic High School, and the Berks County Catholic Youth Organization. For the duration of the AGREEMENT, the LESSEE, in operation of the PREMISES or in granting permission for its use, remains subject to the laws of the United States, Commonwealth of Pennsylvania, and the City of Reading and agrees not to discriminate against participation on the basis of race, creed, sex, or color.
- 4.2 Hours of Operation: The LESSEE is allowed to access, utilize, and schedule events on the PREMISES as necessary to perform its business purpose under this AGREEMENT.
- 4.3 Equipment Repair and Replace: Any and all repairs, maintenance, or replacement of fixtures or equipment shall be made at LESSEE's expense. Any equipment owned by the LESSEE previous to this AGREEMENT that is repaired, maintenance, or replaced, shall remain the property of the LESSEE and subsequently removed at this termination of this AGREEMENT.

#### **ARTICLE V – MAINTENANCE & REPAIR**

- 5.1 Maintenance by the LESSEE: LESSEE shall keep the PREMISES in the condition as when delivered at the time of this AGREEMENT, and in compliance with all codes promulgated by the City of Reading. LESSEE is responsible general maintenance and upkeep, excepting ordinary wear and tear or an act of God. In the event of material change to the condition of the PREMISES, the LESSEE shall provide LESSOR prompt notice of the defective circumstance, there by granting LESSOR opportunity to exercise reasonable measures and due diligence to repair.
- 5.2 Additional Maintenance: LESSEE agrees to the following during the business purpose of this AGREEMENT: (a) follow all rules and regulations of the City of Reading Public Works Department; (b) ensure that all trash accrued during business operation for the purposes of this AGREEMENT is disposed of in the proper receptacles for collection by the LESSOR.

#### **ARTICLE VI – INDEMNIFICATION**

- 6.1 Indemnification: The LESSEE agrees to protect, defend, and hold harmless City/LESSOR from any and all claims, damages, suits, or expenses, and charges, including legal fees in defense thereof that might be asserted by any party participating in, or arising out of, or related to the this AGREEMENT. This includes, but is not limited to courts costs and expert fees, incurred by the negligent acts or omissions of LESSEE, agents, officers, invitees, or licensed occupants of the PREMISES. If portions of this AGREEMENT are held invalid, this provision shall remain in effect as a separate contract between the LESSOR and LESSEE.

#### **ARTICLE VII – MISCELLANEOUS PROVISIONS**



7.1 Applicable Laws: This AGREEMENT shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania and the City of Reading.

7.2 Headings: The headings and underlined captions herein are used for convenience only, and are not to be construed in the interpretation of this AGREEMENT.

7.3 Notices: The LESSOR, including attention to, and LESSEE's address for all notices required under this AGREEMENT shall be:

_____	_____
_____	_____
_____	_____

7.4 Independent Contractor: LESSEE is and at all times under this AGREEMENT shall be considered as an Independent Contractor and is not a City of Reading employee.

7.5 Entire AGREEMENT and Modification: This instrument memorializes the entire and whole AGREEMENT as accepted by the parties, and supersedes any and all other AGREEMENTs or understandings. There shall be no modification of this AGREEMENT, except in writing, and unless accepted mutually by the Parties.

7.6 Severability: If any provision(s) of this AGREEMENT or provision is held invalid or deemed impermissible, such provision(s) will be considered severable and will not affect other provisions or applications of this AGREEMENT which can be given effect and remain in intact.

IN WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to be executed this day and year first above written.

City of Reading/LESSOR

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

Egelman's Park Association/LESSEE

By: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

Bill NO. \_\_\_\_\_ - 2013

**AN ORDINANCE AMENDING THE CITY OF READING CODIFIED ORDINANCES  
CHAPTER 1 ADMINISTRATION, PART 5 BOARDS DEPARTMENTS COMMISSIONS  
COMMITTEES AND COUNCILS, SECTION E CITIZENS ADVISORY BOARD (CAB) AS  
ATTACHED**

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS  
AS FOLLOWS:**

**SECTION 1.** Amending the City of Reading Codified Ordinances Chapter 1 Administration, Part 5 Boards, Departments, Commissions Committees and Councils, Section E Citizens Advisory Board (CAB) as attached

**SECTION 2.** All other parts of the Ordinance remain unchanged.

**SECTION 3.** This Ordinance shall be effective in ten (10) days, in accordance with Charter Section 219.

Adopted \_\_\_\_\_, 2013

\_\_\_\_\_

Council President

Attest:

\_\_\_\_\_

City Clerk

Submitted to Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Received by the Mayor's Office: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

Vetoed by Mayor: \_\_\_\_\_

Date: \_\_\_\_\_

E. Citizens Advisory Board (CAB).<sup>83</sup>

§1-551. Creation and Name.

Council hereby establishes and creates a Citizens Advisory Board to be known and referred to herein as the CAB.

§1-552. Purpose and Functions.

1. The purpose of the CAB is to ~~advise the Mayor and Council~~ ***act as a communication vehicle between City government and City residents on City-wide policies and issues related to neighborhood quality of life and economic health programs as well as assisting in an advisory capacity with any other community issues or programs*** in which the Mayor and/or Council deem citizen participation necessary and beneficial.

§1-553. Membership.

1. The CAB shall consist of ~~21~~ ***eleven (11)*** voting members all of whom shall be residents of the City.
2. The Board shall maintain a broad-based representation reflecting the overall population of the City.
3. Each City Council member, including Council President, will have ~~two (2)~~ ***one (1)*** appointment to the CAB and the Mayor shall have ~~seven (7)~~ ***four (4)*** appointments to CAB. Responsibility of dismissing Board members shall lie with Council in accordance with subsection (9) hereof.
4. The initial terms shall be staggered as follows:
  - a. The first set of four (4) members appointed shall have a term that expires on December 31, 2014
  - b. The second set of four (4) members appointed shall have a term that expires on December 31, 2015
  - c. The third set of three (3) members appointed shall have a term that expires on December 31, 2016
5. Members appointed or reappointed after the initial term period defined in section (4) herein, shall serve a four (4) year term.
6. Each member shall continue to serve until a successor is duly appointed or until some other formal action is taken by Council.
7. Members may be reappointed upon expiration of their terms for a period of three (3) years.
8. A quorum of no less than ~~eleven (11)~~ ***six (6)*** members shall be necessary to make any formal recommendations to the Mayor and/or Council.
9. Any member absent from three consecutive regularly scheduled meetings shall be recommended to Council for formal dismissal.

§1-554. Meetings.

The CAB shall establish its own meeting schedule and will meet on a regular basis.

All CAB meetings shall adhere to State regulations as defined in the Act of June 3, 1986, P.L. 388, No. 84, known as the Sunshine Act,” 53 P.S. §271 et seq.

---

§1-555. Organizational Procedures.

1. The CAB shall hold annual elections to select Board officers including a Chair, Vice Chair and Secretary.
2. The CAB shall establish task forces as needed.

**City of Reading Firemen's Pension Plan**  
**Explanation of Code Amendments**

§ 1-621 Definition of “Pay, Salary, Wages or Compensation”	The various definitions of “pay, salary, wages or compensation” as used in the Plan Document have been amended to comply with the current requirements of section 401(a)(17) of the Code.
§ 1-621 Definition of “Qualified Military Service	This section contains the definition of “qualified military service” linked to the same definition in USERRA.
§ 1.640(4)(B)	This section has been amended to reflect the requirements of USERRA and HEART.
§ 1.650	This section contains the currently required direct rollover provisions, including the applicable effective dates for various required changes to such provisions.
§ 1.650.1	This section contains the currently required Code section 415(b) provisions, including applicable effective dates for various required changes to such provisions.
§ 1.650.2	This section contains the good-faith compliance provisions of Code section 401(a)(9).
§ 1.650.3	This section contains the pre-ERISA vesting requirement.
Appendix A A-1	These provisions set forth the specific provisions of Code section 401(a)(17) that pre-date, and have been superseded by, the current definition of “pay, salary, wages or compensation” contained in § 1.621 – Definitions. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.
Appendix A A-2	These provisions set forth the superseded requirements of Code section 415(b). As indicated above, the currently required Code section 415(b) provisions are set forth in §1.650.1 of the Plan document. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.
Numerous non-substantial, non-Code amendments have been made to the Plan Document, none of which affect the Code provisions.	

**BILL NO. \_\_\_\_\_**

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, B. FIREMEN'S PENSION FUND, SECTIONS 1-621 ET SEQ.**

**THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, B. Firemen's Pension Fund, Sections 1-621 et seq shall be and are hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.**

**SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc. of said Code and Chapter shall remain in effect unchanged and likewise are ratified.**

**SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.**

**Enacted \_\_\_\_\_, 2013**

\_\_\_\_\_  
**President of Council**

**Attest:**

\_\_\_\_\_  
**City Clerk**

**City of Reading  
Firemen's Pension Fund  
Effective January 1, 2012**

***Prepared by Hay Group  
100 Penn Square East  
Philadelphia, PA 19017***



PART 6  
PENSIONS

B. Firemen's Pension Fund.

- §1-621. Definitions
- §1-622. Board of Managers Created
- §1-623. Board of Managers; Members, Term and Vacancy
- §1-624. Board Officers
- §1-625. Surety Bond of the Treasurer
- §1-626. Board Expenses
- §1-627. Board Compensation
- §1-628. Fund Created; Receipt of Contributions; Payment from and Investment of Fund
- §1-629. Fund Sources
- §1-630. Gifts and Grants
- §1-631. Reward Proceeds
- §1-632. DiLauro Interest Arbitration
- §1-633. Member Contributions; Increase
- §1-634. Council Contributions
- §1-635. Board Rewards, Rules and Meetings
- §1-636. Board to Request Budget Funds from Council
- §1-637. Board Voting and Decisions
- §1-638. Board to Issue Payment Certificates
- §1-639. Employment Termination Prior to Entitlement
- §1-640. Entitlement to Benefits
- §1-641. Members Right to and Amount of Benefits; Service Increment Contributions
- §1-642. Benefits to be Uniform; Widows and Children of Members
- §1-643. Disability Benefits
- §1-644. Deferred Retirement Option Program (DROP)
- §1-645. Application
- §1-646. Contributions Payment to Estate
- §1-647. Pension Investment Account
- §1-648. Exemption from Attachment or Execution; Nonassignability
- §1-649. Effective Date
- §1-650. Direct Rollovers
- §1-650.1. Maximum Permissible Benefits and Contributions – Code Section 415
- §1.650.2. Required Minimum Distributions – Code Section 401(a)(9)
- §1.650.3. Miscellaneous

## **PART 6**

### **PENSIONS**

#### **B. Firemen's Pension Fund.**

##### **§1-621. Definitions.**

As used in this Part 6B, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following respective meanings:

**BOARD** - the Board of Managers of the Firemen's Pension Fund.

**BOARD ADMINISTRATOR** - the position designated by the board to act on behalf of the board in matters of day-to-day administration of the plan.

**CITY** - the City of Reading, Pennsylvania.

**CITY COUNCIL** - The City Council of the City of Reading, Pennsylvania.

**CODE** – the United States Internal Revenue Code, as amended, including reference, where applicable, to regulations and other guidance issued by the United States Department of Treasury and the Commissioner of the Internal Revenue Service.

**DEPARTMENT OF FIRE AND RESCUE** - the Department of Fire and Rescue of the City of Reading.

**DROP** - Deferred Retirement Option Plan.

**DROP ACCOUNT** - separate account created to accept DROP member's monthly pension check while an employee is a DROP member.

**EMPLOYEE** - a regularly salaried paid uniformed employee of the Department of Fire and Rescue.

**FUND** - Firemen's Pension Fund, established pursuant to Section 1-628.

**MEMBER** – a current or past employee eligible to participate in the plan.

**PAY, SALARY, WAGES or COMPENSATION** - means pickup contributions plus remuneration received as a City employee excluding refunds for expenses, contingency and accountable expense allowances and excluding severance payments or payments for unused vacation or unused sick leave or comp time that is paid upon termination. Pay, salary, wages or compensation includes amounts excluded from income pursuant to a member's election under a cash or deferred compensation arrangement described in sections 401(k) of the code, an eligible deferred compensation plan described in section 457(b) of the code, a cafeteria plan described in section 125 of the code, and, effective January 1, 1998, a qualified transportation fringe benefit plan under section 132(f) of the code. Notwithstanding the preceding the annual pay, salary, wages or compensation of a member shall be limited as set forth in section 401(a)(17) of the code (as adjusted annually pursuant to section 401(a)(17)(B) of the code and announcement by the Internal

Revenue Service; for 2011, \$245,000). Pay, salary, wages or compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If pay, salary, wages or compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the pay, salary, wages or compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

**PLAN** - the Firemen's Pension Plan.

**QUALIFIED MILITARY SERVICE** - any service in the uniformed services (as defined in chapter 3 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

**SPOUSE** – the spouse of a member, as determined under law of the Commonwealth of Pennsylvania. Effective for designations made after December 31, 2006, a member may designate his/her spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

(*Ord. 5-2000, 4/27/2000, §1; as amended by Ord. 91A-2006, 1/9/2006, §1*)

**§1-622. Board of Managers Created.**

The board shall be responsible for the distribution of pensions and service increments from the plan to appropriate members and beneficiaries.

(*Ord. 5-2000, 4/27/2000, §2*)

**§1-623. Board of Managers; Members, Term and Vacancy.**

The board shall consist of: the Mayor, Director of Finance, Director of Public Safety, City Auditor and Chief of the department of fire and rescue, ex officio, whose term on the Board shall be concurrent with their tenure of office; and two active members of the department of fire and rescue to be chosen by the members of the department of fire and rescue. Of the first managers to be chosen by the members of the department of fire and rescue, one shall be chosen for a term of 2 years and one for a term of 4 years. Biennially thereafter, one manager shall be chosen for a term of 4 years to take the place of one whose term expires. In case of vacancy among the managers chosen by the department of fire and rescue, a successor shall be chosen for the unexpired term. In the event that the office of any of the said selectees shall become vacant by reason of death, resignation, or otherwise, such manager's office shall be filled for its unexpired term by members of the department of fire and rescue by special election.

(*Ord. 5-2000, 4/27/2000, §3*)

**§1-624. Board Officers.**

The Mayor shall be the President; the City Auditor, the Secretary; and the Director of Finance, the Treasurer of said board.

(*Ord. 5-2000, 4/27/2000, §4*)

**§1-625. Surety Bond of Treasurer.**

The Treasurer shall give to the City, and maintain a surety bond for the benefit of the Plan, in an amount equivalent to the probable amount of money and securities that shall come into his hands for the faithful performance of his duties, the premium on which bond, however, shall be paid from the fund.

*(Ord. 5-2000, 4/27/2000, §5)*

**§1-626. Board Expenses.**

All direct and incidental expenditures (such as stationery, postage, miscellaneous supplies, etc.) necessary to the transaction of the business of the board shall be provided for from the fund.

*(Ord. 5-2000, 4/27/2000, §6)*

**§1-627. Board Compensation.**

Board members shall receive no compensation for their services with respect to the plan and fund.

*(Ord. 5-2000, 4/27/2000, §7)*

**§1-628. Fund Created; Receipt of Contributions; Payment from and Investment of Fund.**

1. There shall be created by said board a fund to be known as the Firemen's Pension Fund. *(Ord. 5-2000, 4/27/2000, §8)*
2. It shall be the exclusive duty of the board to serve as fund trustees and to receive, disburse, retain, invest and reinvest the fund created by virtue of this Part 6B and to pay over by warrant or check the amount due under this plan to members or their widows or widowers or their estates or children. The board, with the approval of the Director of Finance of the City, may enter into agreements with reputable institutions to perform any of the aforesaid duties, including, but not limited to advising the board with respect to any and all of its duties, but in the event the board does so, any such agreement shall require the institutions involved to provide the board with written reports concerning its activities at least once every 6 months. The compensation of such institutions shall be paid by the fund or such source of pay as is designated by applicable law. The fund shall be used for the exclusive purpose of funding and paying benefits provided hereunder, and a reversion of fund assets or a return of City contributions is prohibited except as otherwise provided by applicable law or IRS Revenue Ruling 91-4.

**§1-629. Fund Sources.**

1. In addition to paying into the fund City contributions and applicable employee contributions, there shall be paid into the fund all bequests, legacies, gifts or donations made to the fund, and all sums subscribed by the public, as well as all net incomes resulting from all games, sports, entertainment, or any and all other sources of income conducted by or under the supervision of the department of fire and rescue.
2. The fund shall also hold in trust contributions made by the City in its sole discretion, and by members as required herein.

(Ord. 5-2000, 4/27/2000, §9)

**§1-630. Gifts and Grants.**

Any gifts, grants, devises or bequests of any monies, real estate, personal property or other valuable things from whatever source, received by the board shall be contributed to the fund.

(Ord. 5-2000, 4/27/2000, §10)

**§1-631. Reward Proceeds.**

There shall also be turned over and paid to the fund ½ of all rewards that may be paid or given for or on account of extraordinary service by said department of fire and rescue or by any fireman who is covered by the provisions of this Part 6B.

(Ord. 5-2000, 4/27/2000, §11)

**§1-632. DiLauro Interest Arbitration**

1. Section 1-633, entitled “Members Contributions,” §1-640, entitled “Entitlement to Benefits,” §1-641, entitled “Members Rights to and Amount of Benefits,” §1-643, entitled “Disability Benefits,” and §1-645, entitled “Application,” are hereby amended to conform precisely with paragraph 7, page 7, of the DiLauro Interest Arbitration award of December 28, 1982, entitled Proposed Pension Changes for Members Employees hired (SIC) after January 1, 1982, quoted verbatim as follows:

- A. Twenty-five years of service and attained age 50 for normal retirement.
- B. Monthly pension shall be 50% of pay.
- C. Service increment based on 25 years completed before the age 65.
- D. Average pay shall be highest of any 5 years employment or pay at date of retirement.
- E. Pay shall be construed to be base salary plus longevity.
- F. Employee contribution of 5% shall apply only to pay as defined in Subsection (a)(5), hereof.”

(Ord. 5-2000, 4/27/2000, §26; as amended by Ord. 45-2004, 10/25/2004, §1; and by Ord. 91A2006, 1/9/2006, §4)

**§1-633. Member Contributions; Increase.**

1. Each employee shall contribute to the fund 4% of his pay, which amount shall be withheld from the employee’s paycheck, as prescribed by City policy. In the event the City Council shall deem it necessary, in order to provide sufficient funds for payment to widows of members retired on pension, or killed, or who die in service it shall, upon resolution, increase the aforesaid deduction to a maximum of 5%.

2. There shall be paid into the fund the amount of 5% to be deducted by the City from the salary of each fireman or employee of the department of fire and rescue, until such time that the fireman or employee shall be retired under the provisions of the Firemen's Pension Fund.

*(Ord. 5-2000, 4/27/2000, §12)*

**§1-634. City Contributions.**

The City shall annually appropriate to the fund, such amount as the City Council may consider proper within the limitation fixed by law.

*(Ord. 5-2000, 4/27/2000, §13)*

**§1-635. Board Rewards, Rules and Meetings.**

The board shall keep full and accurate accounts of all transactions. It shall have full power to make rules for the transaction of its business, the application and investment of its fund, its time and place of meeting, but shall meet at least four times in each and every year (special meetings upon call of the board president).

*(Ord. 5-2000, 4/27/2000, §14)*

**§1-636. Board to Request Budget Funds from Council.**

It shall be the duty of the board, each year at the time of making up the Budget Ordinance, to prepare a full and detailed statement of the assets of the fund and the amount which the City is required to contribute to the fund as an annual contribution, and to present the same to the City Council together with a statement of the amount of money required to enable the board to pay pensions and service increments in full, together with refunds, under the plan.

*(Ord. 5-2000, 4/27/2000, §15)*

**§1-637. Board Voting and Decisions.**

No resolution shall be passed or order made for payment of money, unless by affirmative vote of a majority of the members of the board. In all questions coming before the board, the board's decision on all questions with respect to the plan and any member's rights to benefits under the plan shall be conclusive and binding on both the member, the plan, and the City.

*(Ord. 5-2000, 4/27/2000, §16)*

**§1-638. Board to Issue Payment Certificates.**

The board shall issue certificates signed by its president and secretary to the member entitled to retirement and pension, and also service increment under this Part 6B, for the amount of money ordered paid to such member out of the fund, which certificate shall state for what purpose said payment is to be made.

*(Ord. 5-2000, 4/27/2000, §17)*

**§1-639. Employment Termination Prior to Pension Entitlement.**

If, for any cause, any person contributing to the fund shall cease to be in the service of the department of fire and rescue before he shall become eligible to receive any pension benefits, the total amount of the contributions paid into the fund by him shall be refunded in full without interest. Provided, however, if any such person shall have had returned to him the amount contributed as aforesaid, and shall afterward re-enter the service of the department of fire and rescue, he shall not be entitled to the pension benefits designated unless he shall return to the fund the entire amount withdrawn, in which event, the required period of service under this Part 6B shall be computed from the time he first entered the service of the department of fire and rescue, excluding any period of time during which the member was not employed by the department of fire and rescue. Absent repayment of contributions by the re-entering member, the date of his service shall commence upon re-entry to the department of fire and rescue.

(Ord. 5-2000, 4/27/2000, §18)

**§1-640. Entitlement to Benefits.**

1. Every fireman or employee of the department of fire and rescue who shall have served a continuous period of 20 years shall be entitled to be retired and eligible to pension, and may make application to the said board for retirement, provided he has attained 50 years of age.
2. The term "continuous period of 20 years" shall be interpreted in such a way as to encompass the provisions of the Act of Assembly of June 23, 1931, P.L. 932, Art. XLIII, as amended thereafter, also known as 53 P.S. §39321.
3. Should a member of the plan cease to be employed as a full-time fireman for any reason prior to completing the minimum age and minimum period of continuous service requirements, but after having completed 12 years of full-time service, then such member shall be entitled to vest in a reduced pension benefit as provided for in §1-641(3) of this Part 6B, subject to the following conditions, and as provided for elsewhere herein:
  - A. The member must file with the board written notice of his or her intent to vest.
  - B. The member must include in the notice the date the member intends to terminate his or her service as a full-time fireman.
  - C. The termination date shall be at least 30 days later than the date the member submits the notice to the board.
  - D. The member must be in good standing with the department of fire and rescue on the date of the notice to vest.
  - E. The Board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any 5 years of service preceding the date, whichever shall be higher.
4. **Military Service.**

- A. All members of the plan who are contributors and who called to military service subsequent to September 1, 1940, and who were not members of the plan prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed 5 years of such service upon their payment to the fund of an amount equal to that which they would have paid had they been members during the period for which they desire credit, and their payment to such fund of an additional amount as the equivalent of the contributions of the City plus any interest the City would have been required to pay on the contributions on account of such military service.
- B. **USERRA and HEART Requirements.** Effective December 12, 1994, any member who is absent on account of qualified military service and returns to City service within the period of time during which his reemployment rights are protected by federal law shall receive service credit, contributions, benefits and other rights provided under this Subsection in lieu of the service credit, contributions, benefits or other rights to which the member would otherwise be entitled under this Section, except to the extent the member would be entitled to more advantageous service credit, contributions, or benefits or more valuable rights under other provisions of this Section. A member described in this Subsection shall be credited with years of service for the full period of qualified military service, provided such member pays into the fund an amount equal to the contributions such member would have been required to make but for his absence on account of qualified military service, within the five-year period of time beginning on his reemployment date (or the lesser period of time beginning on such reemployment date that is three times the length of his qualified military service), and the City shall make all contributions that would have been due on account of such member contributions, and the member shall be entitled to all other rights and benefits accruing on account of such contributions and service. For purposes of this Subsection, a member shall be treated as having received compensation during his qualified military service based on the rate of compensation the member would have received but for his qualified military service compensation, or if such amount is not reasonably certain, his average compensation during the 12-month period immediately preceding his qualified military service (or, if shorter, the period of time immediately preceding his qualified military service). This Subsection shall be applied in a manner consistent with section 414(u) of the code.
- (1) Effective January 1, 2007, in the case of a member who dies while performing qualified military service, the member's surviving beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided herein as though the member had resumed employment with the City on the day before death and then terminated employment on account of death in accordance with section 401(a)(37) of the code.
- (2) Effective with respect to years beginning after December 31, 2008, for purposes of applying the limits on annual benefits and contributions and for purposes of applying other applicable provisions of the code, but not for purposes of determining benefits and contributions, "compensation" shall also include differential wage payments, as defined in section 3401(h) of the code, paid by the City to an employee on account of qualified military service.



**§1-641. Member Right to and Amount of Benefits; Service Increment Contributions.**

1. A. Payments of pension shall not be a charge on any fund in the Treasury of the City nor any account under its control save the Firemen's Pension Fund herein provided for.
  - B. Except as to service increments provided for in Subsection (2) of this Section, the annual pension of a vested eligible member, whether for disability or by reason of age or service, shall be 50 percent of the greater of (1) twelve times the monthly salary (including base salary, overtime, holiday and longevity) of the member at the date of vesting under §1-640 or retirement, or (2) the highest average annual salary (including base salary, overtime, holiday and longevity), which the member received during any 5 years of service preceding retirement.
  - C. In the case of the payment of a pension to a member for permanent injury incurred in service, and to the family of a member killed or who dies in service, the account and commencement of the payment of the pension shall be fixed by regulations of the Board. Such regulations shall not take into consideration the amount and duration of the workers' compensation allowed by law.
  - D. Payments to widows of members retired on pension or killed in the service on or after January 1, 1968, shall be the amount payable to the member which would have been payable had he been retired at the time of his death. If a member dies leaving no widow but leaving to survive him a dependent child or children under the age of 18, such child or children shall be entitled to the same benefits as a widow, as herein before set forth, until such child or children reach the age of 18, marry, or die.
2. In addition to the pension which is authorized to be paid from the fund by this Part 6B, and notwithstanding the limitations therein placed upon such pensions and upon contributions, every member who shall become entitled to a pension shall also be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth.
    - A. Service increment of a member shall be the sum obtained by computing the number of whole years after having served the minimum required by this Part 6B during which a member has been employed by the City and multiplying the said number of years so computed by an amount equal to  $\frac{1}{40}$ <sup>th</sup> of the retirement allowance which has become payable to such member in accordance with the provisions of this Part 6B. In computing the service increment, no employment after the member has reached the age of 65 years shall be included, and no service increment shall be paid in excess of \$500 per month. (*Ord. 45-2004*)
    - B. Each member, shall pay into the fund a monthly sum in addition to his pension contribution, which shall not exceed the sum of \$5 per month and, provided that such service increment contribution shall not be paid after a member has reached the age of 65 years. (*Ord. 45-2004*)
    - C. Any person who is a member of the department on July 20, 1968, who has already reached the age of 65, shall have his service increment computed on the year of employment prior to the date of reaching his sixty-fifth birthday.
    - D. Service increment contributions shall be paid at the same time and in the same manner as pensions, and may be withdrawn in full without interest by persons who leave the employment

of such City, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

- E. All members of the department of fire and rescue who are now contributors to the fund and all those employed by the City after July 20, 1968, if required to become contributors to the pension fund, shall be subject to the provisions of this Part 6B.
3. In the event that a member of the fund shall be eligible for a reduced retirement benefit based upon the 12 year vesting detailed in §1-641(3) and provided that such member shall have complied with all the conditions of §1-641(3) and all other applicable conditions and requirements of this Part 6B, then in such event the reduced benefit of the member shall be calculated as detailed in this Subsection. Upon reaching the date which would have been the member's retirement date had the member continued his or her full time employment with the department of fire and rescue, the member shall notify the Board, in writing, that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this Section shall be computed as follows:
- A. The initial determination of the member's base retirement benefits shall be computed based upon the salary indicated on the notice to vest.
  - B. The portion of the base retirement benefit due the member shall be determined by applying to the base amount the percentage of his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the department of fire and rescue until his or her minimum retirement date.

(*Ord. 5-2000, 4/27/2000, §10; as amended by Ord. 45-2004, 10/25/2004, §1*)

**§1-642. Benefits to be Uniform; Widows and Children of Members.**

The fund shall be applied under such regulations as the Board of Managers shall prescribe for the benefit of such members of the department of fire and rescue as shall receive honorable discharge therefrom by reason of the service of age or disability, widows of retired members and families of such as may be killed or who die in the service. All such pensions as shall be allowed to those who are retired by reason of the disabilities or of the service or age shall be in conformity with a uniform scale, together with service increments as hereafter provided. Benefits allowed from such fund to families of such as are killed or who die in service shall take into consideration the member's widow and his minor children under 18 years of age, if any survive.

(*Ord. 5-2000, 4/27/2000, §21*)

**§1-643. Disability Benefits.**

- 1. The board, upon receipt of a member's application, shall pay a full pension to a member who is physically or mentally incapacitated from performing his duty in the department of fire and rescue. Said pension shall be monthly payments for the life of the member of not less than ½ (50%) of the employee's monthly salary as of the date of disability.
- 2. The board shall, upon application received, retire on pension any paid fireman or employee if he is physically or mentally incapacitated, through injury or disease incurred off the job from performing

his duty in the department of fire and rescue, provided the disabled fireman or employee has completed a minimum of 5 years in the department. The monthly pension that an employee shall receive hereunder shall be an amount equal to 1/40 of his monthly salary as of the date of disability for each year of service. In computing years of service, a fraction of year shall be counted as such, a fraction of years.

(Ord. 5-2000, 4/27/2000, §22)

**§1-644. Deferred Retirement Option Program (DROP)**

1. **Eligibility.** Effective January 1, 2006, members of the department of fire and rescue, that have not retired prior to the implementation of the DROP program, may enter into the DROP on the first day of any month following completion of 20 years of credited service.
2. **Written Election.** Any member of the department of fire and rescue electing to participate in the DROP must complete and execute a “drop option form” prepared by the City of Reading, Department of Human Resources, which shall evidence the member’s participation in the DROP. The form must be signed by the member and notarized and submitted to the City of Reading, Department of Human Resources, prior to the date on which the member wishes the DROP option to be effective. The DROP option notice shall include an irrevocable notice to the City, by the member, that the member shall resign from employment with the department of fire and rescue effective on a specific date not more than 60 months from the effective date of the DROP option. In addition, all retirement documents required by the Firemen’s Pension Fund must be filed and presented to the Pension Board for approval of retirement and payment of pension. Once a retirement application has been approved by the board it is irrevocable.
3. **Limitation on Pension Accrual.** After the effective date of the DROP option, the member shall not longer earn or accrue additional years of continuous service for pension purposes.
4. **Benefit Calculation.** For all retirement fund purposes, continuous service of a member participating in the DROP shall remain as it existed on the effective date of commencement of participation in the DROP. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Reading Firemen’s Pension Fund. The average monthly pay of the member for pension calculation purposes shall remain as it existed on the effective date of commencement of participating in the DROP. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the pension fund. The pension benefit payable to the members shall increase only as a result of the cost of living adjustments in effect on the effective date of the member’s participation in the DROP, or applicable cost of living adjustments granted thereafter.
5. **Payments to DROP Account.** The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a normal retirement benefit shall, upon the member commencing participation in the DROP, be paid into the separate DROP account established to receive the member’s monthly pension payments. The fund shall maintain the account. Such DROP account shall be credited with interest in a manner prescribed by the board.
6. **Payout.** Upon the termination date set forth in the member’s drop option notice or, such date as the member withdraws or is terminated from the DROP program, the retirement benefits payable to the member or the member’s beneficiary, if applicable, shall be paid to the member or beneficiary and

shall no longer be paid to the member's deferred retirement option account. Within 30 days following termination of a member's employment pursuant to their participating in the DROP program, the balances in the member's DROP account shall be paid to the member in the single lump sum payment or, at the member's option, in any fashion permitted by law.

7. **Disability During DROP.** If a member becomes temporarily disabled during his participation in DROP, his participation freezes and the time period while on disability does not count towards the 5-year participation limit. Upon return to duty, membership in DROP shall resume, continuing with the remaining time left in the 5-year membership period. The member shall receive disability pay in the same amount as disabled firefighters that are not participating in DROP. In no event shall a member on temporary disability have the ability to draw from his DROP account. However, notwithstanding any other provision in this Subsection, if a firefighter is disabled and has not returned to work as of the date of his required resignation, then such resignation shall take precedence over all other provisions herein and said firefighter shall be required to resign.
8. **Death.** If a DROP member dies before the DROP account balance is paid in full, the member member's legal beneficiary shall have the same rights as the member to withdraw the account balance.
9. **Individual DROP Investment Account.** The Firemen's Pension Board may, at its discretion, select a third party to provide a mutual fund or other investment option(s), record keeping and reporting to the members and the Board. All investment and administrative costs shall be charged against the individual DROP investment account of the member.
10. **Limitation of Eligible Members.** There shall be a limit of ten bargaining unit members eligible to opt into the DROP on an annual basis. In the event that more than ten bargaining unit members opt to participate in the program in any given year, eligibility for the ten available slots shall be determined exclusively by seniority.
11. The DROP shall not be available to an elected official, except for an official first elected prior to September 18, 2009.
12. **Amendment.** Any amendments to the DROP ordinance shall be consistent with the provisions covering deferred retirement option plans set forth in the applicable collective bargaining agreement and shall be binding upon all future DROP members and upon all DROP members who have balances in their deferred retirement option accounts.

(*Ord. 5-2000, 4/27/2000; as added by Ord. 91A-2006, 1/9/2006, §2*)

#### **§1-645. Application.**

This Part 6B shall apply to all regular salaried paid firemen and employees of the Department of Fire and Rescue.

(*Ord. 5-2000, 4/27/2000, §23; as amended by Ord. 91A-2006, 1/9/2006, §4*)

#### **§1-646. Contributions Payment to Estate.**

In the event of the death of a pensioner, before he shall have received as much as he contributed to said fund, the balance thereof remaining, without interest, shall be paid to his estate.

(*Ord. 5-2000, 4/27/2000, §24; as amended by Ord. 91A-2006, 1/9/2006, §4*)

**§1-647. Pension Investment Account.**

1. The board may create a Firemen's Pension Investment Account.
2. The board is hereby authorized to invest for the credit of said account the surplus money accumulated in said fund in excess of such sum as may be fixed by said board together with such amounts as may be required for the payment of pensions and service increments as directed by this Part 6B during the year.
3. The interest received from such investments shall be paid into the fund upon receipt of same, and if at any time sufficient funds are not available (inclusive of the monies appropriated by the City up to the amount it may be permitted to pay under the law), for the payment of all pensions and service increments in full, then said board may dispose of and sell such securities as it may hold in its investment account and use the proceeds thereof to supply such deficiency.
4. All monies invested for the credit of said account shall be invested in such investments as are permissible under the Fiduciaries Investment Act of 1949, being the Act of May 26, 1949, P.L. 1828.
5. All securities are to be deposited with the Treasurer of said board for the credit of its investment account.

(*Ord. 5-2000, 4/27/2000, §25; by Ord. 14-2001, 5/29/2001; and by Ord. 91A-2006, 1/9/2006, §4*)

**§1-648. Exemption from Attachment or Execution; Nonassignability.**

All pensions and service increments granted under this Part 6B and every portion thereof shall be exempt from attachment of garnishment processes and shall not be seized, taken or subject to detainer or levied upon by virtue of an execution of any processes or proceedings whatsoever, issued out of or by any court in this Commonwealth for the payment and satisfaction in whole or in part of any claim, damage, demand or judgment against any pensioner. No pensioner shall have the right to transfer or assign his or her pension or any part thereof, either by way of mortgage or otherwise.

(*Ord. 5-2000, 4/27/2000, §27; as amended by Ord. 91A-2006, 1/9/2006, §4*)

**§1-649 - Effective Date.**

1. The provisions of this Part pertaining to service increments, as provided for by Act No. 204 of the 1968 Pennsylvania Legislature, shall become effective retroactive to July 20, 1968, 53 P.S. §39320 et seq.
2. Except as otherwise provided in Subsection (1) hereof, all provisions of this Part shall become effective January 31, 1972.

3. The provision of this Part 6B pertaining to service increments, as provided for by Act No. 204 of the 1968 Pennsylvania Legislature, shall become effective retroactive to July 20, 1968.

(*Ord. 5-2000*, 4/27/2000, §29; as amended by *Ord. 91A-2006*, 1/9/2006, §4)

#### **§ 1-650. Direct Rollovers**

1. Direct Rollovers. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this Subsection, on and after January 1, 1993 a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
2. For purposes of this Section, the following definitions shall apply:
  - A. **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under code section 401(a)(9); the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution that is made upon hardship of a member. Notwithstanding anything in this paragraph to the contrary, for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code, or a governmental 457 plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not.
  - B. **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in code section 408(a), an individual retirement annuity described in code section 408(b), a Roth IRA as pursuant to code section 408A(e), for distributions made after December 31, 2001 an annuity plan described in code section 403(a) or an annuity contract described in code section 403(b), a qualified trust described in code section 401(a), or for distributions made after December 31, 2001 an eligible plan under code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in code section 414(p). Effective in the case of an eligible rollover distribution to a surviving spouse before 2002 or to a beneficiary other than a surviving spouse after 2009, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- C. **Distributee:** A distributee includes any member. In addition, a member's surviving spouse and the member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. Effective with respect to distributions after 2009, a distributee also means a beneficiary of a member other than a surviving spouse.
- D. **Direct rollover:** A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

#### **§ 1-650.1. Maximum Permissible Benefits and Contributions – Code Section 415**

1. In General. Notwithstanding anything herein to the contrary, effective for limitation years beginning on or after January 1, 1995, the annual benefit (attributable to City contributions and pickup contributions treated as City contributions with respect to a member payable under the plan and all other defined benefit plans of the City, when expressed in the form of a straight life annuity, shall not exceed the "maximum permissible benefit." Effective for limitation years beginning on or after January 1, 2008, in no case shall any amount accrue in a limitation year, with respect to a member under the plan or all other deferred benefits plans of the City, that would exceed the maximum permissible benefit. For purposes of this Section, the member's maximum permissible benefit shall equal the dollar limit prescribed in section 415(b)(1)(A) of the code (\$195,000 in 2011) or such other amount as may be prescribed under regulations issued by the U.S. Secretary of the Treasury under section 415(d) of the code, adjusted in accordance with paragraphs (2), (3) and (4), below. In addition, the "annual additions," as defined in section 415(c)(2) of the code, made by or on behalf on any member attributable to member contributions to the plan other than pickup contributions treated as City contributions, together with any annual additions, to any code section 401(a)-qualified defined contribution plan maintained by the City shall not exceed the maximum amount determined under section 415(c)(1) of the code for any limitation year as adjusted under section 415(d) of the code and applicable guidance. Solely for purposes of determining the maximum annual addition prescribed in section 415(c) of the code, compensation means a member's wages as defined in section 3401(a) of the code and all other payments of compensation to the member from the City for which the City is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the code. Compensation shall be determined without regard to any rules that limit the compensation included in wages based on the nature or location of the employment or the services performed. Compensation shall include any amount which would otherwise be deemed compensation under this definition but for the fact that it is subject to a salary reduction agreement under any plan described in section 457(b), 132(f), or 125 of the code. Solely for this purpose, compensation also includes regular compensation received after such member's severance from employment (as defined in Treas. Reg. § 1.415(a)-1(f)(5) (but not severance payments)); provided that payment of such compensation is made by the later of 2-1/2 months after the member's severance from employment or the end of the calendar year that includes the member's severance from employment; and provided further, that in order for these post-severance payments to be considered compensation for this purpose, these amounts may only consist of the following (which would otherwise constitute compensation): (i) regular compensation for services during the member's regular working hours, or compensation for service outside the member's regular work hours (such as overtime or shift differential), commission, bonuses, or similar payments, if such payment would have been paid to the member prior to severance from employment if the member had continued in employment with the City; (ii) payment for unused, accrued, bona fide sick, vacation or other leave (but only if the member would have been able to use the leave if employment had continued); and (iii) for plan years beginning on or after January 1, 2009, payments to members who do not currently perform services for the City by reason of qualified military service (as

that term is defined in section 414(u)(1) of the code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service. Other types of payments paid to the member after severance from employment shall not be considered compensation for this purpose, even if paid within the time frame described above. In no event, however, shall compensation for this purpose include any amounts not permitted to be included under section 415 of the code.

2. Adjustment to the maximum permissible benefit. Adjustments shall be made to the maximum permissible benefit in accordance with paragraphs (A), (B) or (C) below:
  - A. If a member's benefit is payable in any form other than a straight life annuity, the determination as to whether the limitation of this Section has been satisfied shall be made by adjusting such benefit to the form of a straight life annuity beginning when the payment of benefits begins. The adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greater of (1) the equivalent annual benefit computed using seven percent interest rate and GAM83 mortality table, and (2) the equivalent annual benefit computed using an interest assumption of five percent (for distributions made during plan years beginning in 2004 or 2005, 5.5 percent) and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. Notwithstanding the preceding sentence, effective for plan years beginning after 2005, for purposes of determining whether any benefit payable as a lump sum satisfies the limitation of this Section, the adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greatest of: (x) the equivalent annual benefit computed using the interest rate and mortality table specified in the plan for actuarial equivalence for the particular form of benefit payable; (y) the equivalent annual benefit computed using an interest rate assumption of 5.5 percent and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code; and (z) the equivalent annual benefit computed using the interest rate specified in section 417(e)(3) of the code and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code divided by 1.05. However, for the purposes of such adjustment, any ancillary benefit that is not directly related to retirement income benefits and that portion of any joint and survivor annuity that is actuarially equivalent to the default form of payment benefit payable to a married member shall not be taken into account.
  - B. If the benefit of a member who is not a "qualified participant," as defined in section 415(b)(2)(H) of the code, begins before he or she reaches age sixty-two (other than on account of becoming disabled by reason of personal injuries or sickness or death), the maximum permissible benefit shall be adjusted in accordance with section 415(b) of the code, to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit determined under Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-two. (1) For limitation years beginning before July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the Unisex UP-84 Mortality Table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v)



of the code. (2) For limitation years beginning on or after July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two, both determined without applying the limitations of section 415 of the code. (3) For limitation years beginning prior to 2002, the reduction shall not reduce the maximum permissible benefit below \$75,000 if the benefit begins at or after age fifty-five, or, if the benefit begins before age fifty-five, the equivalent of the \$75,000 limit for age fifty-five. Any decrease in the maximum permissible benefit made in accordance with this paragraph shall not reflect a mortality decrement.

C. If the benefit of a member begins after he or she reaches age sixty-five, the maximum permissible benefit of Subsection (1) shall be increased in accordance with section 415(b) of the code and the regulations there under to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit of Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-five. (1) For limitation years beginning before July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of (a) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the unisex UP-84 mortality table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate assumption and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of: (a) the actuarial equivalent (at such age) of the maximum permissible benefit using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the maximum permissible benefit multiplied by the ratio of the annual amount of the immediately commencing straight life annuity payable to the member, computed disregarding the member's accruals after age sixty-five, but including any actuarial adjustments even if those adjustments are applied to offset accruals, to the annual amount of the straight life annuity that would be payable under the plan to a hypothetical member who is sixty-five years old and has the same accrued benefit (with no actuarial increases for commencement after age sixty-five) as the member receiving the distribution (determined disregarding the member's accruals after age sixty-five and without applying the rules of section 415 of the code). For purposes of both (1) and (2) above, mortality between age sixty-five and the annuity starting date shall be ignored.

3. Lowest limitation of maximum permissible benefit. Except as provided in Subsection (4) hereof, the maximum permissible benefit shall never be deemed to be an amount which is less than \$10,000, provided the member is not, and has never been, a member in any code section 401(a)-qualified defined contribution plan of the employer.

4. Maximum permissible benefit applicable to certain members who have less than ten years of participation service with the City. The maximum permissible benefit applicable to any member, other than a retiree receiving disability benefits by reasons of personal injuries or sickness or beneficiaries, survivors, or the estate of a member, who has less than ten years of participation service with the City shall be equal to the lesser of the maximum permissible benefit or \$10,000 multiplied by a fraction, the numerator of which is the number of the member's years (or part thereof) of participation service in the plan as of and including the current limitation year, and the denominator of which is ten.
5. Limitation of accrued benefit if annual benefit exceeds maximum permissible benefit. If the member's annual benefit exceeds the maximum permissible benefit after the application of the appropriate factors, such member's accrued benefit shall be limited to an amount which produces an annual benefit equal to the maximum permissible benefit, adjusted, where applicable, as set forth in this Section.
6. For purposes of this Section, "participation service" means an accrual computation period for which the following conditions are met: (A) the member is credited with at least the period of service for benefit accrual purposes, required hereunder in order to accrue a benefit for the accrual computation period, and (B) the member is included in the plan for at least one day of the accrual computation period. If these two conditions are met, participation service credited to the member hereunder shall equal the amount of benefit accrual service credited to the member for such accrual computation period.

#### **§ 1.650.2. Required Minimum Distributions – Code Section 401(a)(9).**

Notwithstanding any other provision herein, beginning after 1986, any and all benefit distributions made under the plan on or after shall be made in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the code, including the incidental death benefit requirements of section 401(a)(9). In accordance with this requirement, the following rules shall apply:

1. Distributions that begin during the member's lifetime shall begin no later than April 1 following the calendar year in which the member retires or the calendar year in which the member attains age seventy and one-half and be distributed over the life of the member or the joint lives of the member and his beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his beneficiary).
2. If a member dies before his entire interest has been distributed, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.
3. If the member dies before receiving any distributions from the plan and (A) the death benefit is payable to his surviving spouse, such death benefit shall be distributed over a period not exceeding such spouse's life (or life expectancy) beginning no later than: (1) December 31 of the calendar year immediately following the calendar year in which the member died, or (2) December 31 of the calendar year in which the member would have attained age seventy and one-half; (B) the death benefit is payable to a designated beneficiary other than the member's surviving spouse, such death benefit shall be distributed to such beneficiary over a period not exceeding the beneficiary's life (or life expectancy) beginning no later than December 31 of the calendar year following the member's death; and (C) if the death benefit is not payable to the member's surviving spouse or designated

beneficiary, the member's entire interest will be paid no later than December 31 of the calendar year which includes the fifth anniversary of the member's date of death.

**§ 1.650.3. Miscellaneous.**

1. Construction. The masculine gender includes the feminine and the singular includes the plural, unless the context clearly indicates otherwise.
2. Governing Law. The plan and fund are governed by the Third Class City Code of Pennsylvania. The plan is a governmental plan as defined in section 414(d) of the code and section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and as such is exempt from the requirements of ERISA and those requirements of the code from which a governmental plan is specifically exempt.
3. Pre-ERISA Vesting Requirement. In the event of the plan's termination or the City's permanent cessation of contributions, each member shall be vested to the extent the plan is funded.
3. Reemployment Rights of Veterans. Notwithstanding anything in this plan to the contrary, benefits contributions, and service credit with respect to qualified military service (as defined in section 414(u)(5) of the code) will be provided in accordance with section 414(u) of the code.
4. Amendments. The City Council shall have the authority to amend, freeze, or terminate the plan in its sole discretion, subject to any limitations imposed by applicable law.

**For the City of Reading, Pennsylvania  
By its City Council**

---

**Signature**

---

**Name and Title**

---

**Date**

## **Appendix A**

### **Corrective Retroactive Amendments**

#### **A-1. Definition of “Compensation” is limited as follows:**

- A. For Plan Years Beginning on or after January 1, 1989 and before January 1, 1994. Effective as of the first day of the first plan year beginning after 1988 and ending before 1994, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$200,000 (as adjusted under section 401(a)(17) of the code).
- B. For Plan Years Beginning on or after January 1, 1994 and before January 1, 2002. Effective for plan years beginning on or after January 1, 1994 and before January 1, 1997, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$150,000 (as adjusted under section 401(a)(17) of the code). For plan years beginning on or after January 1, 1997 and before January 1, 2002, any reference herein to the limitation under section 401(a)(17) of the code shall mean the limit described herein; specifically, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The adjustment to the compensation limit under section 401(a)(17) of the code in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefit in the current plan year, the compensation for that prior determination period is subject to the limit described herein as in effect for that prior determination period.
- C. Plan Years Beginning on or after January 1, 2002. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or the determination period. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

#### **A-2. Section 415 Limits on Accrued Benefits**

- A. In General. Notwithstanding anything in the retirement system to the contrary, the limitations on benefits and contributions contained in section 415 of the code are generally applicable to benefits payable under the system effective for plan years after December 31, 1975; except, however, a person who was an active member before October 3, 1973 whose annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954 (the 1954 code)) does not exceed 100 percent of his annual rate of compensation on the earlier of (i)

October 2, 1973 or (ii) the date on which he separated from City service, and such annual benefit is not greater than the annual benefit which would have been payable to the such member on retirement if (i) all the terms and conditions of the system in existence on such date had remained in existence until such retirement and (ii) his compensation taken into account for any period after October 2, 1973 had not exceeded his annual rate of compensation on such date, and in the case of a member who separated from City service prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from service, then such annual benefit shall be treated as not exceeding the limitations of subsection 415(b) of the 1954 code.

B. Combined Limit. Without negating the generality of A-2(a), for limitation years beginning after December 31, 1975 and before January 1, 2000, if a member participates in one or more defined benefit plans and makes member contributions other than contributions treated as pickup contributions or participates in one or more code section 401(a)-qualified defined contribution plans, or a welfare benefit fund as defined in section 419(e) of the code, under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in section 419A(d)(3) of the code, or an individual medical account, as defined in section 415(l)(2) of the code, which is part of a pension or annuity plan, the member's accrued benefit under the system shall be adjusted to the extent required, if at all, so that the sum of the defined benefit fraction and the defined contribution fraction for any limitation year shall not exceed 1.4 (effective January 1, 1982, 1.0).

(1) Defined Benefit Fraction. The defined benefit fraction for any limitation year is a fraction (a) the numerator of which is the member's projected annual benefit (determined as of the close of the limitation year) under all such defined benefit plans (whether or not terminated), and (b) the denominator of which is (i) the sum of the maximum amount of annual additions to such account which could have been made for each year and for each prior year, and (ii) effective January 1, 1982, the lesser of (A) \$90,000, or the applicable dollar limit under section 415(b) of the code for such limitation year multiplied by 1.25, or (B) for limitation years ending before 1995, the member's average annual compensation for the three consecutive calendar years of active participation, that produce the highest average, multiplied by 1.4.

(2) Defined Contribution Fraction. The defined contribution fraction for any limitation year is a fraction (i) the numerator of which is the total of the amount treated as annual additions, under section 415(c) of the code, to the member's accounts as of the close of the limitation year under all defined contribution plans (whether or not terminated), and (ii) the denominator of which is the lesser of the following amounts determined for the limitation year and for each prior limitation year for which the member was an employee (regardless of whether any plan was in existence during such year):

(a) \$30,000, or the applicable dollar limit for each such limitation year, multiplied by 1.25,  
or

(b) 35% of the member's compensation, for each such limitation year.

## **City of Reading Police Pension Plan Explanation of Code Amendments**

§ 1-621

Definition of

“Compensation”    The definition of “compensation” as used in the Plan Document has been amended to comply with the current requirements of section 401(a)(17) of the Code.

§ 1-621

Definition of

“Qualified

Military Service    This section contains the definition of “qualified military service” linked to the same definition in USERRA.

§ 1.614

This section has been amended to reflect the requirements of USERRA and HEART.

§ 1.616.1

This section contains the currently required direct rollover provisions, including the applicable effective dates for various required changes to such provisions.

§ 1.616.2

This section contains the currently required Code section 415(b) provisions, including applicable effective dates for various required changes to such provisions.

§ 1.616.3

This section contains the good-faith compliance provisions of Code section 401(a)(9).

§ 1.616.4

This section contains the pre-ERISA vesting requirement.

Appendix A

A-1

These provisions set forth the specific provisions of Code section 401(a)(17) that pre-date, and have been superseded by, the current definition of “compensation” contained in § 1.601 – Definitions. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.

Appendix A

A-2

These provisions set forth the superseded requirements of Code section 415(b). As indicated above, the currently required Code section 415(b) provisions are set forth in §1.616.2 of the Plan document. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.

Numerous non-substantial, non-Code amendments have been made to the Plan Document, none of which affect the Code provisions.

**BILL NO. \_\_\_\_\_**

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, A. POLICE PENSION FUND, SECTIONS 1-601 ET SEQ.**

**THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, A. Police Pension Fund, Sections 1-601 et seq shall be and are hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.**

**SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc. of said Code and Chapter shall remain in effect unchanged and likewise are ratified.**

**SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.**

**Enacted \_\_\_\_\_, 2013**

\_\_\_\_\_  
**President of Council**

**Attest:**

\_\_\_\_\_  
**City Clerk**

**City of Reading  
Police Pension Plan**

**Effective January 1, 2012**

***Prepared by Hay Group  
100 Penn Square East  
Philadelphia, PA 19017***



PART 6  
PENSIONS

A. Police Pension Fund.

- §1-601. Definitions
- §1-602. Police Pension Fund Association
- §1-603. Duties of the Director of Human Resources
- §1-604. Contributions to Fund
- §1-605. Right of Members to Pension Benefits and Amount of Pension Benefits
- §1-606. Right to Refund of Contributions in Lieu of Receipt of Pension Benefits
- §1-607. Termination of Employment of Members Prior to Being Entitled to Pension Benefits
- §1-608. Permanent Disability Pension
- §1-609. Widow or Widowers and Children of Members
- §1-610. Computation of Time of Service
- §1-611. Receipt of Contributions; Payment from and Investment of Fund
- §1-612. Exemption from Attachment or Execution; Nonassignability
- §1-613. Payment to Estate
- §1-614. Military Service
- §1-614.1. Police Service
- §1-615. Increases in Allowances Following Retirement
- §1-616. Deferred Retirement Option Program (DROP)
- §1-616.1. Direct Rollovers
- §1-616.2. Maximum Permissible Benefits and Contributions – Code Section 415
- §1-616.3. Required Minimum Distributions – Code Section 401(a)(9)
- §1-616.4. Miscellaneous.

## **PART 6**

### **PENSIONS**

#### **A. Police Pension Fund.**

##### **§1-601. Definitions.**

As used in this Part 6A, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following respective meanings:

**AVERAGE ANNUAL PAY** - the amount which would constitute the highest average annual compensation which the member earned during any 5 calendar years of his service for the City, or which would be determined by the rate of the monthly pay of such member at the date of retirement, whichever is the higher

**BOARD** - the Police Pension Fund Association Board to which reference is made in §1-602.

**BOARD ADMINISTRATOR** - the position designated by the board to act on behalf of the board in matters of day-to-day administration of the plan.

**CITY** - the City of Reading, Pennsylvania.

**CODE** – the United States Internal Revenue Code, as amended, including reference, where applicable, to regulations and other guidance issued by the United States Department of Treasury and the Commissioner of the Internal Revenue Service.

**COMPENSATION** - means pickup contributions plus remuneration received as a City employee excluding refunds for expenses, contingency and accountable expense allowances and excluding severance payments or payments for unused vacation or unused sick leave or comp time that is paid upon termination. Compensation includes amounts excluded from income pursuant to a member's election under a cash or deferred compensation arrangement described in sections 401(k) of the code, an eligible deferred compensation plan described in section 457(b) of the code, a cafeteria plan described in section 125 of the code, and, effective January 1, 1998, a qualified transportation fringe benefit plan under section 132(f) of the code. Notwithstanding the preceding the annual compensation of a member shall be limited as set forth in section 401(a)(17) of the code (as adjusted annually pursuant to section 401(a)(17)(B) of the code and announcement by the Internal Revenue Service; for 2011, \$245,000). Compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

**DROP** - Deferred Retirement Option Plan.

**DROP ACCOUNT** - separate account created to accept a DROP member's monthly pension check while an employee is a DROP member.

**EMPLOYEE** - a person in the service of the City as a member of the police force.

**FUND** - the police pension fund, which shall hold the assets of the plan in trust.

**MEMBER** - a current or former employee who has made or makes required contributions under the plan.

**MILITARY SERVICE** - honorable active service in the uniformed services listed below is considered military service for pension purposes: (1) Navy, (2) Air Force, (3) Marine Corps, (4) Coast Guard, (5) Reserve Corps.

**NEW EMPLOYEE** - an employee who enters the service of the City on or after January 1, 1977.

**NEW MEMBER** - an employee who is a member of the retirement system on or after January 1, 1977.

**PENSION BENEFITS** - the financial allowances provided to members pursuant to the provisions of this Part.

**PERSON** - an officer or employee of the City.

**PLAN** - the City of Reading Police Pension Plan.

**PRESENT EMPLOYEE** - an employee in the service of the City prior to January 1, 1997.

**PRESENT MEMBER** - an employee who is a member of the retirement system prior to January 1, 1977.

**QUALIFIED MILITARY SERVICE** - any service in the uniformed services (as defined in chapter 3 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

**RATE OF MONTHLY PAY** - one-twelfth of the base pay as set forth in the salary ordinance, in effect as of date of retirement, adopted pursuant to a collective bargaining agreement and/or Act 111 arbitration plus, 1/12th of longevity pay plus 1/12th of holiday pay the member is entitled to for the calendar year.

**SALARY** - the base pay as set forth in the salary ordinance adopted pursuant to a collective bargaining agreement and/or Act 111 arbitration and shall not include any other compensation subject to the limits on compensation set forth in section 401(a)(17) of the code.

**SPOUSE** - the spouse of a member, as determined under law of the Commonwealth of Pennsylvania. Effective for designations made after December 31, 2006, a member may designate his/her spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

**YEARS or WHOLE YEARS OF SERVICE** - for the purposes of computing the period of time during which a member has been employed by the City, each whole-12-month period commencing from the date of employment of a member.

**YEARS ON RETIREMENT** - the number of whole years that a police officer has been retired as of January 1, 2001.

(*Ord. 6-2000, 5/8/2000, §1*; as amended by *Ord. 47-2002, 9/9/2002, §1*; by *Ord. 29-2003, 9/8/2003, §1*; and by *Ord. 70-2007, 9/24/2007, §1*)

**§1-602. Police Pension Fund Association.**

1. There is hereby created a board to be known as the “Police Pension Fund Association Board,” consisting of:
  - A. The Mayor or his designee.
  - B. The City Auditor, formerly known as the City Controller.
  - C. The Director of Finance, formerly known as Director of Accounts and Finance.
  - D. The Chief of Police.
  - E. One retiree member of the system to be elected by the members of the retirement system.
  - F. One active police person to be chosen by members of the retirement system.
2. The representatives chosen by the members shall be elected for terms of 4 years. The terms of the members of the board shall run concurrently with the term of the Mayor.
3. A vacancy in the board occurring during the term of the representatives elected by the members of the retirement system shall be filled for the unexpired term by members of the retirement system.
4. Board members shall serve without compensation.
5. It shall be the duty of the board to register all members and to administer the collection and distribution of the fund herein provided for and to make such reasonable rules and regulations as the board may deem necessary in order to effectuate the provisions to a responsible institution experienced in administering the collection, distribution and investment of pension funds, but in such event the board shall require any such institution to provide the board with written reports of its activities relating to the fund at least once every 6 months.

(*Ord. 6-2000, 5/8/2000, §2*)

**§1-603. Duties of the Director of Human Resources.**

1. It shall be the duty of the Director of Human Resources of the City to submit to the board statements showing the name, sex, title, compensation, duties, date of birth and date of full-time employment of a person who is eligible for membership in the retirement system.
2. In addition, it shall be the duty of the Director of Human Resources to submit to the board through the pension administrator, a statement providing years of full-time service, date of termination, total contributions to the fund by each employee and compensation for the highest 5 calendar years of the employment of any such terminated individual.

(*Ord. 6-2000, 5/8/2000, §3*)

**§1-604. Contributions to Fund.**

1. Each member shall contribute to the fund an amount equal to 5% of his salary or wages plus \$1 per month. Effective January 1, 2007, said mandatory member contribution to the fund shall increase to 6.5% of his base salary plus \$1 per month. (*Ord. 70-2007*)
2. Contributions to the fund shall be made by the City deducting the same from the salary or wages of the member and paying said deductions to the fund.

(*Ord. 6-2000, 5/8/2000, §4; as amended by Ord. 70-2007, 9/24/2007, §1*)

**§1-605. Right of Members to Pension Benefits and Amount of Pension Benefits.**

**1. Normal Retirement Benefits.**

- A. (1) Effective January 1, 1999, all members of the plan shall be eligible for a normal retirement of 50% of average annual pay upon having completed 20 years of service, without regard to age.
  - (2) Effective January 1, 2007, members may retire with the following benefit:
    - 60% of average annual pay with 20 years of service
    - 62% of average annual pay with 21 years of service
    - 64% of average annual pay with 22 years of service
    - 66% of average annual pay with 23 years of service
    - 68% of average annual pay with 24 years of service
    - 70% of average annual pay with 25 years of service
  - (3) Effective January 1, 2008, all members shall be required to retire upon the completion of 30 years of service. (*Ord. 70-2007*)
- B. During the lifetime of any retired member, such member shall be entitled to receive one-twelfth of the annual pension benefit specified in Subsection 1. Such pension benefits shall be paid monthly, in advance, in accordance with and subject to the conditions set forth herein. (*Ord. 70-2007*)
- C. In addition to the pension benefits which are authorized to be paid in accordance with the previous Paragraph B, each member who may become entitled to pension benefits shall also become entitled to the payment of a service increment in accordance with and subject to the conditions hereinafter set forth:
  - (1) Service increments shall be the sum obtained by computing the number of whole years a member shall have continued as a paid City employee after having served in the employment of the City for a period of 20 years and multiplying the number of years in excess of 20 by an amount equal to 1/40<sup>th</sup> of the pension benefit which becomes payable to

such member in accordance with the provisions of this Part 6A. The maximum service increment pension shall be \$500 per month. (*Ord. 70-2007*)

2. **Members Entitled to Reduced Retirement Benefits.** Any member who ceases to be employed by the City for any reason prior to completing the minimum required period for continuous service under Subsection (3), but after having completed 12 years of full-time service shall be entitled upon retirement to receive benefits in accordance with Subsection (3) of this Section.
3. **Computation of Reduced Retirement Benefits.** Should a member of the Police Pension Fund cease to be employed as a full-time employee for any reason prior to completing the minimum period of continuous service requirement, but after completing 12 years of full-time service, the member shall be entitled to cease his or her employment and vest in his or her retirement benefit computed under §1-605, subject to the following conditions:
  - A. The member must file on a fund-authorized form with the board administrator a written notice of his or her intention to vest.
  - B. The member must include in the notice, the date the member intends to terminate his or her service as a full-time employee.
  - C. The termination date shall be at least 30 days later than the date the notice to vest is received by the board.
  - D. The member must be in good standing with the Police Department on the date of notice to vest.
  - E. The board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of said notice to vest or the highest average annual salary which the member received during any 5 calendar years of service preceding said date, whichever is higher.
  - F. Upon reaching the date which would have been the member's retirement date had the member continued his or her full-time employment with the Police Department, the member shall notify the board, in writing, that the member desires to collect his or her pension. The amount of pension benefits the member is entitled to receive under this section shall be computed as follows:
    - (1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest.
    - (2) The portion of the base retirement due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the Department until his or minimum retirement date.

(*Ord. 6-2000, 5/8/2000, §5; as amended by Ord. 70-2007, 9/24/2007, §1*)

**§1-606. Right to Refund of Contributions in Lieu of Receipt of Pension Benefit.**

Any member who becomes entitled to pension benefits in accordance with the provisions of §1-605 may elect to obtain a refund of all his contributions without interest rather than to receive the pension benefits provided for in any of said Section. Such election must be made in writing to the board prior to the date on which the first pension payment is made to the member.

*(Ord. 6-2000, 5/8/2000, §6)*

**§1-607. Termination of Employment of Members Prior to Being Entitled to Pension Benefits.**

Any member who has been in the service of the City for a period of less than 20 years and whose service shall terminate prior to his or her spouse or children becoming eligible for a pension shall be paid the total amount of the contributions paid into the fund by him and without interest, except as provided in §1-605(3).

*(Ord. 6-2000, 5/8/2000, §7)*

**§1-608. Permanent Disability Pension.**

Any member who becomes totally disabled as a result of injury or illness in the line of duty or, if not in the line of duty, after he shall have completed 10 years of service, shall be entitled to full pension benefits during such disability. Any member who becomes totally disabled not as a result of injury or illness in the line of duty and shall not have completed 10 years of service shall be entitled to a pension of ½ (50%) of the full pension to which he would otherwise be entitled. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the member is in a condition of health which totally disables him from performing the duties of his position or office or of any other gainful employment within the police force of the City to which he may be assigned. Any such member receiving pension benefits shall thereafter be subject to physical examination at any reasonable time or times, upon order of the board, and upon his failure to submit to any such examination, his pension shall cease.

*(Ord. 6-2000, 5/8/2000, §8)*

**§1-609. Widow or Widowers and Children of Members.**

The widow or widower of a member who has retired on pension hereunder, or if not retired has completed 10 years of service, shall be entitled to full pension benefits. The widow or widower of a member who has not completed 10 years of service shall be entitled to a pension benefit of ½ (50%) of the full pension. However, the widow or widower of a member who has been killed in service, regardless of his or her years of service shall be entitled to receive full pension benefits. Such pension shall be payable so long as such widow or widower survives and upon the death of the widow or widower such pension shall be divided equally among the children of the member under the age of 18 years. Such pension shall cease on the later date of:

- A. The death of the widow or widower.
- B. The eighteenth birthday of the youngest child.

(Ord. 6-2000, 5/8/2000, §9; as amended by Ord. 70-2007, 9/24/2007, §1)

**§1-610. Computation of Time of Service.**

1. Except as set forth in Subsection (2) of this Section, the period of service used to determine whether a member is eligible for pension benefits under the provisions of this Part 6A shall be computed from the date on which a person becomes a member of the Police Pension Fund. If, after becoming a member, a person leaves the service of the City and is subsequently re-employed, for purposes of determining eligibility for benefits, his time of service shall be computed from the date on which he last became a member of the fund.
2. A member who terminates his service in the police force of the City and has been re-employed as a member of the police force shall be entitled to credit for prior service in determining his eligibility for pension benefits under the following circumstances:
  - A. Such member shall be entitled to a credit for prior service if he has repaid to the fund any contributions which he withdrew from the fund upon leaving the service of the City. The extent of prior service for which such member shall be entitled to a credit shall be based on the length of time during which such member originally paid the contributions which he withdrew and which he repaid.

(Ord. 6-2000, 5/8/2000, §10)

**§1-611. Receipt of Contributions; Payment from and Investment of Fund.**

4. It shall be the exclusive duty of the board to serve as fund trustees and to receive, disburse, retain, invest and reinvest the fund created by virtue of this Part 6A and to pay over by warrant or check the amount due under this plan to members or their widows or widowers or their estates or children. The board, with the approval of the Director of Finance of the City, may enter into agreements with reputable institutions to perform any of the aforesaid duties, including, but not limited to advising the board with respect to any and all of its duties, but in the event the board does so, any such agreement shall require the institutions involved to provide the board with written reports concerning its activities at least once every 6 months. The compensation of such institutions shall be paid by the fund or such source of pay as is designated by applicable law. The fund shall be used for the exclusive purpose of funding and paying benefits provided hereunder, and a reversion of fund assets or a return of City contributions is prohibited, except as otherwise provided by applicable law or IRS Revenue Ruling 91-4.
2. The City shall contribute to the fund an amount sufficient to meet the requirements of the fund but such amount shall not be less than Paragraph (A), nor more than Paragraph (B).
  - A. An amount equal to 1/2% of all City taxes levied by the City, other than taxes levied to pay interest on or to extinguish the debt of the City or any part thereof, plus such additional amounts as are actuarially necessary to provide for the cost of pensions paid to widows, widowers and children of members.
  - B. An amount equal to 3% of all City taxes levied by the City other than taxes levied to pay interest on or to extinguish the debt of the City or any part thereof, plus such additional



amounts as are actuarially necessary to provide for the cost of pensions paid to widows, widowers and children of members.

The City may take by gift, grant, devise or bequest any money or property, real, personal or mixed, for the benefit of this fund. The board shall enter into such agreements for the care, management and disposal of such funds, in a manner consistent with the directions of the respective donors.

3. Effective January 1, 2007, notwithstanding anything the contrary provided herein, the City shall guarantee placement of funds to make the current police pension solvent to accommodate the increase in benefit. Said fund amount shall be determined and agreed upon by both the City and FOP. (*Ord. 70-2007*)

(*Ord. 6-2000, 5/8/2000, §11; as amended by Ord. 70-2007, 9/24/2007, §1*)

**§1-612. Exemption from Attachment or Execution; Nonassignability.**

The pension benefits and service increments herein provided for shall not be subject to attachment or execution, assignment or transfer and shall be payable only to the person designated by this Part 6A.

(*Ord. 6-2000, 5/8/2000, §12*)

**§1-613. Payment to Estate.**

In the event that any member dies prior to becoming entitled to any pension benefits hereunder, and leaves no widow or widower or children eligible for benefits hereunder, the member's remaining contributions in the fund shall be paid without interest to the following parties in the order designated:

- A. To the estate of the member;
- B. To a person entitled to the contributions in accordance with the inter state laws of the Commonwealth of Pennsylvania.

(*Ord. 6-2000, 5/8/2000, §13*)

**§1-614. Military Service.**

1. **Intervening.** Any member who enters active military service at a time when he is a member of the plan shall have his years (or completed calendar months) of active military service, not to exceed a total of 5, credited as years of service for retirement purposes; provided, that:
  - A. He receives an honorable discharge, certificate of satisfactory service or the equivalent thereof, and produces same to the board.
  - B. He is re-employed by the City within 90 days of such discharge or within such longer period as his re-employment rights are protected by law.
  - C. He shall pay into the fund the amount which he would have been obligated to pay during the period of his military service, but not to exceed a total of 5 years, if he had been an active

employee of the City, which amount shall be based on his salary or wages as a City employee immediately before his departure for active military service.

2. **Nonintervening.** Any member who has not retired and who entered military service subsequent to September 1, 1940, and was not a member of the plan prior to such military service, shall be entitled to make application (on a form, if any, prescribed by the board) to the plan and have completed months of military service, not to exceed 5 years, credited as years of service for retirement purposes, under the following conditions:
  - A. The member shall pay to the fund, an amount equal to the total of (1) and (2) below:
    - (1) An amount equivalent to the pension contribution of Patrol Trainee for the first year, Patrolman 1 for the second year, Patrolman 2 for the third year and Patrolman 3 for the fourth and fifth years during the years the military service was credited, each of which to be determined as of the date the employee becomes a member. (Ord. 70-2007)
    - (2) An amount equivalent to 15.7% of such member's salary representing the City's normal cost (as determined by the actuary), or such rate as computed under the most recent actuarial valuation available as of the date the person becomes a member.
  - B. A member who has not completed payment, either through payroll deduction or by any other payment method, of the entire amount required under the previous Paragraphs by the time the member files a letter of resignation or retirement the member shall not be permitted to receive credit for such nonintervening military service. Any partial payment made by such member on or prior to termination of the member shall be refunded to such member.
3. **USERRA and HEART Requirements.** Effective December 12, 1994, any member who is absent on account of qualified military service and returns to City service within the period of time during which his reemployment rights are protected by federal law shall receive service credit, contributions, benefits and other rights provided under this Subsection in lieu of the service credit, contributions, benefits or other rights to which the member would otherwise be entitled under this Section, except to the extent the member would be entitled to more advantageous service credit, contributions, or benefits or more valuable rights under other provisions of this Section. A member described in this Subsection shall be credited with years of service for the full period of qualified military service, provided such member pays into the fund an amount equal to the contributions such member would have been required to make but for his absence on account of qualified military service, within the five-year period of time beginning on his reemployment date (or the lesser period of time beginning on such reemployment date that is three times the length of his qualified military service), and the City shall make all contributions that would have been due on account of such member contributions, and the member shall be entitled to all other rights and benefits accruing on account of such contributions and service. For purposes of this Subsection, a member shall be treated as having received compensation during his qualified military service based on the rate of compensation the member would have received but for his qualified military service compensation, or if such amount is not reasonably certain, his average compensation during the 12-month period immediately preceding his qualified military service (or, if shorter, the period of time immediately preceding his qualified military service). This Subsection shall be applied in a manner consistent with section 414(u) of the code.

1. Effective January 1, 2007, in the case of a member who dies while performing qualified military service, the member's surviving beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided herein as though the member had resumed employment with the City on the day before death and then terminated employment on account of death in accordance with section 401(a)(37) of the code.
2. Effective with respect to years beginning after December 31, 2008, for purposes of applying the limits on annual benefits and contributions and for purposes of applying other applicable provisions of the code, but not for purposes of determining benefits and contributions, "compensation" shall also include differential wage payments, as defined in section 3401(h) of the code, paid by the City to an employee on account of qualified military service.

(Ord. 6-2000, 5/8/2000, §14; as amended by Ord. 70-2007, 9/24/2007, §1)

#### **§1-614.1. Police Service.**

Any member who has not retired shall be entitled to have full credit (consistent with the military service purchase rules in §1-614) for each year or fraction thereof, to the completed month, not to exceed 5 years under the following conditions:

- A. (1) He shall pay the buyback rate set forth in §1-614(2)(A) based upon his first year of hire.
- (2) Buyback may be made at any time prior to retirement (installment payment plans shall be allowed and implemented) but current retirement standards shall apply.

(Ord. 6-2000, 5/8/2000; as added by Ord. 70-2007, 9/24/2007, §1)

#### **§1-615. Increases in Allowances Following Retirement.**

1. On and after the effective date of this Section, pension benefits shall be increased to those members who have previously retired only upon the action of the City Council and only if the funded status of the fund is such that sufficient provision is made to provide for the accrual of normal cost of future service benefits and of interest on unfunded accrued liabilities.
2. The fund shall pay a member a special ad hoc postretirement adjustment if all of the following apply:
  - A. The retiree has terminated active employment with the City as a member.
  - B. The retiree is receiving a retirement benefit from the City on the basis of active employment with the City as a police officer.
  - C. The retiree began receiving the pension benefit before January 1, 1996.
3. Except as provided in Subsections (4) and (5), the fund shall pay a member a monthly special ad hoc postretirement adjustment under this Section that shall be calculated as follows:

- A. The base adjustment shall be determined by multiplying 15 cents by the years of service and then multiplying that product by the years on retirement.
  - B. The longevity factor shall be determined as the sum of the products calculated by multiplying 0.025 by the years on retirement and 0.05 by the years on retirement in excess of 25, if any.
  - C. The longevity adjustment shall be determined by multiplying the base adjustment calculated under Subsection (3)(A) by the longevity factor calculated under Subsection (3)(B).
  - D. The special ad hoc postretirement adjustment payable under this Section shall be the sum of the base adjustment calculated under Subsection (3)(A) and the longevity adjustment calculated under Subsection (3)(C).
4. **Limitation.** If a retiree is entitled to be paid a special ad hoc postretirement adjustment by more than one municipal retirement system, the amount of the special ad hoc post retirement adjustment under Subsection (3) shall be reduced before such payments commence so that the total of all these adjustments paid to the retiree does not exceed the amount specified in Subsection (3).
5. **Modification in the Amount of 2002 Special Ad Hoc Postretirement Adjustment.** The amount of the special ad hoc postretirement adjustment calculated under Subsection (3) shall be reduced annually by 65% of the total amount of any postretirement adjustments provided to the retiree under any other City pension plan after December 31, 1988, and before January 1, 2002, and paid in the immediately preceding year.
6. The special ad hoc postretirement adjustment under this Section is effective on the date of the first pension benefit payment issued after June 30, 2002. If the special ad hoc postretirement adjustment under this Section is not commenced in the initial retirement benefit payment occurring after June 30, 2002, the special ad hoc postretirement adjustment shall be included as soon as practicable in the pension benefit payment of the retiree, and the initial pension benefit payment that includes the special ad hoc postretirement adjustment also shall include the total amount of the special ad hoc postretirement adjustments previously omitted from the pension benefit payments made after June 30, 2002.

(Ord. 6-2000, 5/8/2000, §15; as amended by Ord. 47-2002, 9/9/2002, §2)

**§1-616. Deferred Retirement Option Program (DROP).**

- 1. **Eligibility.** Effective January 1, 2001, members of the Reading Police Department, who have not retired prior to the implementation of the DROP program may enter into the DROP on the first day of any month following completion of 20 years of credited service.
- 2. **Written Election.** An eligible member electing to participate in the DROP must complete and execute a "DROP option form" prepared by the City of Reading, Department of Human Resources, which shall evidence the member's participation in the DROP. The form must be signed by the member and notarized and submitted to the City of Reading, Department of Human Resources, prior to the date on which the member wishes the DROP option to be effective. The DROP option form shall include an irrevocable notice to the City, by the member, that the member shall resign from employment with the City of Reading Police Department effective on a specific date not more

than 60 months from the effective date of the DROP option. In addition, and consistent with the member's resignation date, all retirement documents required by the board administrator must be filed and presented to the board for approval of retirement and payment of pension. Once a retirement application has been approved by the board it is irrevocable.

3. **Limitation on Pension Accrual.** After the effective date of the DROP option, the member shall no longer earn or accrue additional years of continuous service nor will the member's compensation change for pension purposes.
4. **Benefit Calculation.** For all retirement fund purposes, continuous service of a member participating in the DROP shall remain as it existed on the effective date of commencement of participation in the DROP. Service thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the fund. The average monthly pay of the member for pension calculation purposes shall remain as it existed on the effective date of commencement of participation in the DROP. Earnings or increases in earnings thereafter shall not be recognized or used for the calculation or determination of any benefits payable by the Pension Fund. The pension benefit payable to the member shall increase only as a result of cost-of-living adjustments in effect on the effective date of the member's participation in the DROP, or by applicable cost-of-living adjustments granted thereafter.
5. **Payments to DROP Account.** The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a normal retirement benefit shall, upon the member commencing participation in the DROP, be paid into a separate DROP account established to receive the member's monthly pension payments. Such DROP account shall be credited with interest in a manner prescribed by the board.
6. **Payout.** Upon the termination date set forth in the member's drop option form or, such date as the member withdraws or is terminated from the DROP program the retirement benefits payable to the member or the member's beneficiary, if applicable, shall be paid to the member or beneficiary and shall no longer be paid to the member's deferred retirement option account. Within 30 days following termination of a member's employment pursuant to their participating in the DROP program, the balances in the member's deferred retirement option account shall be paid to the member in a single lump sum payment, or at the member's option, in any fashion permitted by law.
7. **Disability During DROP.** If a member becomes temporarily disabled during his participation in DROP, his participation freezes and the time period while on disability does not count towards the 5-year participation limit. Upon return to duty, membership in DROP shall resume, continuing with the remaining time left in the 5-year membership period. The member shall receive disability pay in the same amount as a disabled member who is not participating in DROP. In no event shall a member on temporary disability have the ability to draw from his DROP account. However, notwithstanding any other provisions in this Subsection, if an officer is disabled and has not returned to work as of the date of his required resignation, then such resignation shall take precedence over all other provisions herein and said officer shall be required to resign.
8. **Death.** If a DROP member dies before the DROP account balance is paid, the member's legal beneficiary shall have the same rights as the member to withdraw the account balance.

9. The DROP shall not be available to an elected official, except for an official first elected prior to September 18, 2009.
10. **Amendment.** Except as may be required by applicable law, any amendments to this Section 1-617 shall be consistent with the provisions covering deferred retirement option plans set forth in any applicable collective bargaining agreement and shall be binding upon all future DROP members and upon all DROP members who have balances in their deferred retirement option accounts.

*(Ord. 6-2000, 5/8/2000; as added by Ord. 29-2003, 9/8/2003, §2)*

#### **§ 1-616.1. Direct Rollovers**

1. Direct Rollovers. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this Subsection, on and after January 1, 1993 a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
2. For purposes of this Section, the following definitions shall apply:
  - A. Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under code section 401(a)(9); the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution that is made upon hardship of a member. Notwithstanding anything in this paragraph to the contrary, for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code, or a governmental 457 plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not.
  - B. Eligible retirement plan: An eligible retirement plan is an individual retirement account described in code section 408(a), an individual retirement annuity described in code section 408(b), a Roth IRA as pursuant to code section 408A(e), for distributions made after December 31, 2001 an annuity plan described in code section 403(a) or an annuity contract described in code section 403(b), a qualified trust described in code section 401(a), or for distributions made after December 31, 2001 an eligible plan under code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a

distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in code section 414(p). Effective in the case of an eligible rollover distribution to a surviving spouse before 2002 or to a beneficiary other than a surviving spouse after 2009, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- C. Distributee: A distributee includes any member. In addition, a member's surviving spouse and the member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. Effective with respect to distributions after 2009, a distributee also means a beneficiary of a member other than a surviving spouse.
- D. Direct rollover: A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

#### **§ 1-616.2. Maximum Permissible Benefits and Contributions – Code Section 415**

**In General.** Notwithstanding anything herein to the contrary, effective for limitation years beginning on or after January 1, 1995, the annual benefit (attributable to City contributions and pickup contributions treated as City contributions with respect to a member payable under the plan and all other defined benefit plans of the City, when expressed in the form of a straight life annuity, shall not exceed the “maximum permissible benefit.” Effective for limitation years beginning on or after January 1, 2008, in no case shall any amount accrue in a limitation year, with respect to a member under the plan or all other deferred benefits plans of the City, that would exceed the maximum permissible benefit. For purposes of this Section, the member's maximum permissible benefit shall equal the dollar limit prescribed in section 415(b)(1)(A) of the code (\$195,000 in 2011) or such other amount as may be prescribed under regulations issued by the U.S. Secretary of the Treasury under section 415(d) of the code, adjusted in accordance with paragraphs (2), (3) and (4), below. In addition, the “annual additions,” as defined in section 415(c)(2) of the code, including payments to a member's DROP account, made by or on behalf of any member attributable to member contributions to the plan other than pickup contributions treated as City contributions, together with any annual additions, to any code section 401(a)-qualified defined contribution plan maintained by the City shall not exceed the maximum amount determined under section 415(c)(1) of the code for any limitation year, as adjusted under section 415(d) of the code and applicable guidance. Solely for purposes of determining the maximum annual addition prescribed in section 415(c) of the code, compensation means a member's wages as defined in section 3401(a) of the code and all other payments of compensation to the member from the City for which the City is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the code. Compensation shall be determined without regard to any rules that limit the compensation included in wages based on the nature or location of the employment or the services performed. Compensation shall include any amount which would otherwise be deemed compensation under this definition but for the fact that it is subject to a salary reduction agreement under any plan described in section 457(b), 132(f), or 125 of the code. Solely for this purpose, compensation also includes regular compensation received after such member's severance from employment (as defined in Treas. Reg. § 1.415(a)-1(f)(5) (but not severance payments)); provided that payment of such compensation is made by the later of 2-1/2 months after the member's severance from employment or the end of the calendar year that includes the member's severance from employment; and provided further, that in order for these post-severance payments to be considered compensation for this purpose, these amounts may only consist of the following (which would otherwise constitute

compensation): (i) regular compensation for services during the member's regular working hours, or compensation for service outside the member's regular work hours (such as overtime or shift differential), commission, bonuses, or similar payments, if such payment would have been paid to the member prior to severance from employment if the member had continued in employment with the City; (ii) payment for unused, accrued, bona fide sick, vacation or other leave (but only if the member would have been able to use the leave if employment had continued); and (iii) for plan years beginning on or after January 1, 2009, payments to members who do not currently perform services for the City by reason of qualified military service (as that term is defined in section 414(u)(1) of the code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service. Other types of payments paid to the member after severance from employment shall not be considered compensation for this purpose, even if paid within the time frame described above. In no event, however, shall compensation for this purpose include any amounts not permitted to be included under section 415 of the code.

**1. Adjustment to the maximum permissible benefit.** Adjustments shall be made to the maximum permissible benefit in accordance with paragraphs (A), (B) or (C) below:

- A. If a member's benefit is payable in any form other than a straight life annuity, the determination as to whether the limitation of this Section has been satisfied shall be made by adjusting such benefit to the form of a straight life annuity beginning when the payment of benefits begins. The adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greater of (1) the equivalent annual benefit computed using seven percent interest rate and GAM83 mortality table, and (2) the equivalent annual benefit computed using an interest assumption of five percent (for distributions made during plan years beginning in 2004 or 2005, 5.5 percent) and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. Notwithstanding the preceding sentence, effective for plan years beginning after 2005, for purposes of determining whether any benefit payable as a lump sum satisfies the limitation of this Section, the adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greatest of: (x) the equivalent annual benefit computed using the interest rate and mortality table specified in the plan for actuarial equivalence for the particular form of benefit payable; (y) the equivalent annual benefit computed using an interest rate assumption of 5.5 percent and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code; and (z) the equivalent annual benefit computed using the interest rate specified in section 417(e)(3) of the code and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code divided by 1.05. However, for the purposes of such adjustment, any ancillary benefit that is not directly related to retirement income benefits and that portion of any joint and survivor annuity that is actuarially equivalent to the default form of payment benefit payable to a married member shall not be taken into account.
- B. If the benefit of a member who is not a "qualified participant," as defined in section 415(b)(2)(H) of the code, begins before he or she reaches age sixty-two (other than on account of becoming disabled by reason of personal injuries or sickness or death), the maximum permissible benefit shall be adjusted in accordance with section 415(b) of the code, to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an



annual benefit equal to the maximum permissible benefit determined under Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-two. (1) For limitation years beginning before July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the Unisex UP-84 Mortality Table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two, both determined without applying the limitations of section 415 of the code. (3) For limitation years beginning prior to 2002, the reduction shall not reduce the maximum permissible benefit below \$75,000 if the benefit begins at or after age fifty-five, or, if the benefit begins before age fifty-five, the equivalent of the \$75,000 limit for age fifty-five. Any decrease in the maximum permissible benefit made in accordance with this paragraph shall not reflect a mortality decrement.

- C. If the benefit of a member begins after he or she reaches age sixty-five, the maximum permissible benefit of Subsection (1) shall be increased in accordance with section 415(b) of the code and the regulations there under to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit of Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-five. (1) For limitation years beginning before July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of (a) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the unisex UP-84 mortality table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate assumption and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of: (a) the actuarial equivalent (at such age) of the maximum permissible benefit using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the maximum permissible benefit multiplied by the ratio of the annual amount of the immediately commencing straight life annuity payable to the member, computed disregarding the member's accruals after age sixty-five, but including any actuarial adjustments even if those adjustments are applied to offset accruals, to the annual amount of the straight life annuity that would be payable under the plan to a hypothetical member who is sixty-five years old and has the same accrued benefit (with no actuarial increases for commencement after age sixty-five) as the member receiving

the distribution (determined disregarding the member's accruals after age sixty-five and without applying the rules of section 415 of the code). For purposes of both (1) and (2) above, mortality between age sixty-five and the annuity starting date shall be ignored.

2. Lowest limitation of maximum permissible benefit. Except as provided in Subsection (4) hereof, the maximum permissible benefit shall never be deemed to be an amount which is less than \$10,000, provided the member is not, and has never been, a member in any code section 401(a)-qualified defined contribution plan of the employer.
3. Maximum permissible benefit applicable to certain members who have less than ten years of participation service with the City. The maximum permissible benefit applicable to any member, other than a retiree receiving disability benefits by reasons of personal injuries or sickness or beneficiaries, survivors, or the estate of a member, who has less than ten years of participation service with the City shall be equal to the lesser of the maximum permissible benefit or \$10,000 multiplied by a fraction, the numerator of which is the number of the member's years (or part thereof) of participation service in the plan as of and including the current limitation year, and the denominator of which is ten.
4. Limitation of accrued benefit if annual benefit exceeds maximum permissible benefit. If the member's annual benefit exceeds the maximum permissible benefit after the application of the appropriate factors, such member's accrued benefit shall be limited to an amount which produces an annual benefit equal to the maximum permissible benefit, adjusted, where applicable, as set forth in this Section.
5. For purposes of this Section, "participation service" means an accrual computation period for which the following conditions are met: (A) the member is credited with at least the period of service for benefit accrual purposes, required hereunder in order to accrue a benefit for the accrual computation period, and (B) the member is included in the plan for at least one day of the accrual computation period. If these two conditions are met, participation service credited to the member hereunder shall equal the amount of benefit accrual service credited to the member for such accrual computation period.

#### **§ 1.616.3. Required Minimum Distributions – Code Section 401(a)(9)**

Notwithstanding any other provision herein, beginning after 1986, any and all benefit distributions made under the plan on or after shall be made in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the code, including the incidental death benefit requirements of section 401(a)(9). In accordance with this requirement, the following rules shall apply:

1. Distributions that begin during the member's lifetime shall begin no later than April 1 following the calendar year in which the member retires or the calendar year in which the member attains age seventy and one-half and be distributed over the life of the member or the joint lives of the member and his beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his beneficiary).
2. If a member dies before his entire interest has been distributed, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.

3. If the member dies before receiving any distributions from the plan and (A) the death benefit is payable to his surviving spouse, such death benefit shall be distributed over a period not exceeding such spouse's life (or life expectancy) beginning no later than: (1) December 31 of the calendar year immediately following the calendar year in which the member died, or (2) December 31 of the calendar year in which the member would have attained age seventy and one-half; (B) the death benefit is payable to a designated beneficiary other than the member's surviving spouse, such death benefit shall be distributed to such beneficiary over a period not exceeding the beneficiary's life (or life expectancy) beginning no later than December 31 of the calendar year following the member's death; and (C) if the death benefit is not payable to the member's surviving spouse or designated beneficiary, the member's entire interest will be paid no later than December 31 of the calendar year which includes the fifth anniversary of the member's date of death.

**§ 1-616.4. Miscellaneous.**

1. Construction. The masculine gender includes the feminine and the singular includes the plural, unless the context clearly indicates otherwise.
2. Governing Law. The plan and fund are governed by the Third Class City Code of Pennsylvania. The plan is a governmental plan as defined in section 414(d) of the code and section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and as such is exempt from the requirements of ERISA and those requirements of the code from which a governmental plan is specifically exempt.
3. Pre-ERISA Vesting Requirement. In the event of the plan's termination or the City's permanent cessation of contributions, each member shall be vested to the extent the plan is funded.
4. Amendments. The City Council shall have the authority to amend, freeze, or terminate the plan in its sole discretion, subject to any limitations imposed by applicable law.

**For the City of Reading, Pennsylvania  
By its City Council**

---

**Signature**

---

**Name and Title**

---

**Date**

## **Appendix A**

### **Corrective Retroactive Amendments**

#### **A-1. Definition of “Compensation” is limited as follows:**

- A. For Plan Years Beginning on or after January 1, 1989 and before January 1, 1994. Effective as of the first day of the first plan year beginning after 1988 and ending before 1994, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$200,000 (as adjusted under section 401(a)(17) of the code).
- B. For Plan Years Beginning on or after January 1, 1994 and before January 1, 2002. Effective for plan years beginning on or after January 1, 1994 and before January 1, 1997, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$150,000 (as adjusted under section 401(a)(17) of the code). For plan years beginning on or after January 1, 1997 and before January 1, 2002, any reference herein to the limitation under section 401(a)(17) of the code shall mean the limit described herein; specifically, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The adjustment to the compensation limit under section 401(a)(17) of the code in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefit in the current plan year, the compensation for that prior determination period is subject to the limit described herein as in effect for that prior determination period.
- C. Plan Years Beginning on or after January 1, 2002. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or the determination period. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

#### **A-2. Section 415 Limits on Accrued Benefits**

- A. In General. Notwithstanding anything in the retirement system to the contrary, the limitations on benefits and contributions contained in section 415 of the code are generally applicable to benefits payable under the system effective for plan years after December 31, 1975; except, however, a person who was an active member before October 3, 1973 whose annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954 (the 1954 code)) does not exceed 100 percent of his annual rate of compensation on the earlier of (i) October 2, 1973 or (ii) the date on which he separated from City service, and such annual

benefit is not greater than the annual benefit which would have been payable to the such member on retirement if (i) all the terms and conditions of the system in existence on such date had remained in existence until such retirement and (ii) his compensation taken into account for any period after October 2, 1973 had not exceeded his annual rate of compensation on such date, and in the case of a member who separated from City service prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from service, then such annual benefit shall be treated as not exceeding the limitations of subsection 415(b) of the 1954 code.

- B. Combined Limit. Without negating the generality of C-2(a), for limitation years beginning after December 31, 1975 and before January 1, 2000, if a member participates in one or more defined benefit plans and makes member contributions other than contributions treated as pickup contributions or participates in one or more code section 401(a)-qualified defined contribution plans, or a welfare benefit fund as defined in section 419(e) of the code, under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in section 419A(d)(3) of the code, or an individual medical account, as defined in section 415(l)(2) of the code, which is part of a pension or annuity plan, the member's accrued benefit under the system shall be adjusted to the extent required, if at all, so that the sum of the defined benefit fraction and the defined contribution fraction for any limitation year shall not exceed 1.4 (effective January 1, 1982, 1.0).

(1) Defined Benefit Fraction. The defined benefit fraction for any limitation year is a fraction (a) the numerator of which is the member's projected annual benefit (determined as of the close of the limitation year) under all such defined benefit plans (whether or not terminated), and (b) the denominator of which is (i) the sum of the maximum amount of annual additions to such account which could have been made for each year and for each prior year, and (ii) effective January 1, 1982, the lesser of (A) \$90,000, or the applicable dollar limit under section 415(b) of the code for such limitation year multiplied by 1.25, or (B) for limitation years ending before 1995, the member's average annual compensation for the three consecutive calendar years of active participation, that produce the highest average, multiplied by 1.4.

(2) Defined Contribution Fraction. The defined contribution fraction for any limitation year is a fraction (i) the numerator of which is the total of the amount treated as annual additions, under section 415(c) of the code, to the member's accounts as of the close of the limitation year under all defined contribution plans (whether or not terminated), and (ii) the denominator of which is the lesser of the following amounts determined for the limitation year and for each prior limitation year for which the member was an employee (regardless of whether any plan was in existence during such year):

(a) \$30,000, or the applicable dollar limit for each such limitation year, multiplied by 1.25,  
or

(b) 35% of the member's compensation, defined under IRC §415(c) as in effect before January 1, 2000, for each such limitation year.

**City of Reading Officers and Employees Retirement Plan**  
**Explanation of Code Amendments**

§ 1-651 Definition of “Salary, Wages, Pay or Compensation”	The various definitions of “salary, wages, pay or compensation” as used in the Plan Document have been amended to comply with the current requirements of section 401(a)(17) of the Code.
§ 1-651 Definition of “Qualified Military Service	This section contains the definition of “qualified military service” linked to the same definition in USERRA.
§ 1.664(3)	This section has been amended to reflect the requirements of USERRA and HEART.
§ 1.668.1	This section contains the currently required direct rollover provisions, including the applicable effective dates for various required changes to such provisions.
§ 1.668.2	This section contains the currently required Code section 415(b) provisions, including applicable effective dates for various required changes to such provisions.
§ 1.668.3	This section contains the good-faith compliance provisions of Code section 401(a)(9).
§ 1.668.4	This section contains the pre-ERISA vesting requirement.
Appendix A A-1	These provisions set forth the specific provisions of Code section 401(a)(17) that pre-date, and have been superseded by, the current definition of “pay, salary, wages or compensation” contained in § 1.651 – Definitions. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.
Appendix A A-2	These provisions set forth the superseded requirements of Code section 415(b). As indicated above, the currently required Code section 415(b) provisions are set forth in §1.668.2 of the Plan document. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.

Numerous non-substantial, non-Code amendments have been made to the Plan Document, none of which affect the Code provisions.

**BILL NO. \_\_\_\_\_**

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, C. OFFICERS AND EMPLOYEES RETIREMENT SYSTEM, SECTIONS 1-651 ET SEQ.**

**THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, C. Officers and Employees Retirement System, Sections 1-651 et seq shall be and are hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.**

**SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc. of said Code and Chapter shall remain in effect unchanged and likewise are ratified.**

**SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.**

**Enacted \_\_\_\_\_, 2013**

\_\_\_\_\_  
**President of Council**

**Attest:**

\_\_\_\_\_  
**City Clerk**

**City of Reading  
Officers and Employees Retirement System**

**Effective January 1, 2012**

***Prepared by Hay Group  
100 Penn Square East  
Philadelphia, PA 19017***



**PART 6**  
**PENSIONS**

C. Officers and Employees Retirement System.

- §1-651. Definitions
- §1-652. System Created
- §1-653. Officers and Employees Retirement Board
- §1-654. Employment Statement
- §1-655. Right to and Amount of Pension Benefits
- §1-656. Disability Benefits
- §1-657. Member Contributions
- §1-658. Additional Payments to Extend Benefits
- §1-659. Termination Prior to Benefit Entitlement
- §1-660. Refunds
- §1-661. Council Contributions
- §1-662. Benefits
- §1-663. Time of Service
- §1-664. Military Service
- §1-665. Payment Only to Beneficiary
- §1-666. Method of Payment
- §1-667. Service Increments
- §1-668. Federal Income Tax Exemption of Employee Contributions
  - §1-668.1. Direct Rollovers
  - §1-668.2. Maximum Permissible Benefits and Contributions – Code Section 415
  - §1-668.3. Required Minimum Distributions – Code Section 401(a)(9)
  - §1-668.4. Miscellaneous

## **PART 6**

### **PENSIONS**

#### **C. Officers and Employees Retirement System.**

##### **§1-651. Definitions.**

The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meaning:

**BOARD** - Officers and Employees Retirement Board.

**BOARD ADMINISTRATOR** - the position designated by the board to act on behalf of the board in matters of day-to-day administration of the plan.

**CITY** – the City of Reading, Pennsylvania.

**CODE** – the United States Internal Revenue Code, as amended, including reference, where applicable, to regulations and other guidance issued by the United States Department of Treasury and the Commissioner of the Internal Revenue Service.

**EMPLOYEE** - a person employed by the City.

**FUND** - Officers and Employees Retirement Fund.

**OFFICER** - a person elected or appointed to City service.

**MEMBER** – a current or former employee or officer of the City who is elected or appointed to the staff of the City, for the first time prior to January 1, 1988, and excluding for such period of time those individuals who are concurrently eligible to accrue benefits under the City's Police Pension Fund or Fireman's Pension Fund.

**PERSON** - an officer or employee of the City.

**PLAN (or SYSTEM)** - the Officers and Employee Retirement Plan.

**QUALIFIED MILITARY SERVICE** - any service in the uniformed services (as defined in chapter 3 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

**SALARY, WAGES, PAY or COMPENSATION** - means pickup contributions plus remuneration received as a City employee excluding refunds for expenses, contingency and accountable expense allowances and excluding severance payments or payments for unused vacation or unused sick leave or comp time that is paid upon termination. Salary, wages, pay or compensation includes amounts excluded from income pursuant to a member's election under a cash or deferred compensation arrangement described in sections 401(k) of the code, an eligible deferred compensation plan described in section 457(b) of the code, a cafeteria plan described in section 125 of the code, and, effective January 1, 1998, a qualified transportation fringe benefit

plan under section 132(f) of the code. Notwithstanding the preceding the annual salary, wages, pay, or compensation of a member shall be limited as set forth in section 401(a)(17) of the code (as adjusted annually pursuant to section 401(a)(17)(B) of the code and announcement by the Internal Revenue Service; for 2011, \$245,000). Salary, wages, pay or compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If salary, wages, pay or compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the salary, wages, pay or compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

**SPOUSE** – the spouse of a member, as determined under law of the Commonwealth of Pennsylvania. Effective for designations made after December 31, 2006, a member may designate his/her spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

*(Ord. 13-1998, 4/27/1998, §1)*

**§1-652. System Created.**

The City of Reading has heretofore and does reaffirm the creation and hereby does create under the provisions of the Act of Assembly of the Commonwealth of Pennsylvania No. 362, approved May 23, 1945, 53 P.S. §39374.1 et seq. under the conditions and subject to the qualifications hereinafter stated, a retirement system for officers and employees of the City, but not including firemen and policemen or employees and officials hired or after January 1, 1988.

*(Ord. 13-1998, 4/27/1998, §2)*

**§1-653. Officers and Employees Retirement Board.**

The Council of the City of Reading hereby reconstitutes an Officers and Employees Retirement Board which shall consist of the following:

1. The Officers and Employees Retirement Board which has heretofore been created shall henceforth consist of the Mayor, the City Auditor, the Director of Finance, two employees to be chosen by the employees contributing to the retirement fund and a retired City employee who shall be appointed by the Mayor subject to confirmation by City Council. *(Ord. 15-1999)*
2. When any of the following are unavailable: the Mayor, City Auditor or Director of Finance then the Mayor, City Auditor or Director Finance shall in writing appoint a designee to act in his/her place for such period or periods as shall be necessary with the approval of the board. In the event that one or more of the foregoing offices are vacant then the acting Mayor, acting City Auditor or acting Director of Finance shall serve on the board until the applicable office is no longer vacant. *(Ord. 15-1999)*
3. The representatives elected by the employees shall be elected for the term to run concurrently with the term of the Mayor, and shall be from two different Departments of the City Government.

4. Members of the board shall serve for the term for which they are elected and until their successors are elected.
5. The members of the board shall serve without compensation, but shall be reimbursed for any necessary expenditures.
6. It shall be the duty of said board to register all persons employed by the City other than firemen or policemen and to administer the collection, investment and distribution of the fund herein provided for, and make such reasonable rules in the premises as said board may deem necessary for its efficient organization, and to carry into effect the provisions of this Part.
7. The board shall keep a complete set of books showing all of its transactions, and a complete record of all its proceedings, which shall be open to inspection by any employee contributing to the fund and to the public.
8. All payments of compensation made under the provisions of this Part shall be made by check only, signed in such manner as may be fixed by the rules of the board.

(Ord. 13-1998, 4/27/1998, §3; as amended by Ord. 15-1999, 7/12/1999, §1)

**§1.653.1. Fund Created; Receipt of Contributions; Payment from and Investment of Fund.**

1. There shall be created by said board a fund to be known as the Officers and Employees Pension Fund.
2. It shall be the exclusive duty of the board to serve as fund trustees and to receive, disburse, retain, invest and reinvest the fund created by virtue of this Part 6C and to pay over by warrant or check the amount due under this plan to members or their widows or widowers or their estates or children. The board, with the approval of the Director of Finance of the City, may enter into agreements with reputable institutions to perform any of the aforesaid duties, including, but not limited to advising the board with respect to any and all of its duties, but in the event the board does so, any such agreement shall require the institutions involved to provide the board with written reports concerning its activities at least once every 6 months. The compensation of such institutions shall be paid by the fund or such source of pay as is designated by applicable law. The fund shall be used for the exclusive purpose of funding and paying benefits provided hereunder, and a reversion of fund assets or a return of City contributions is prohibited, except as otherwise provided by applicable law or IRS Revenue Ruling 91-4.

**§1-654. Employment Statement.**

The Human Resource Department of the City shall on the first day of each calendar month, notify the Board of the employment, or the entering into office of new City officers and employees, and shall submit to the board, a statement showing the name, sex, title, date of birth, compensation, duties, and commencement date of each of such new City officers and employees, and shall also certify to the board, at the same time, all removals, withdrawals, and changes in salary of any member of the officers and employees' retirement system, which shall have occurred during the preceding month.

1. The Director of Finance or his designee has cause and shall continue to cause to be deducted on each and every payroll of a member for each and every payroll period subsequent to November 1, 1946, the following per centum of the total amount of salary earned by each member, in such payroll period in accordance with the provisions of this Part, which sum so deducted shall be applied to the purposes provided for by this Part.
2. The Director of Finance or his designee shall pay each of the amounts so deducted into the Treasury of the officers and employees' retirement fund, and he shall transmit to the Pension Administrator each pay period, a detailed statement of all amounts so paid in.

<u>Married</u>		<u>Single</u>	
Single Coverage		3%	3½%
Single Coverage + Increments	3 ½%	4%	
Joint Coverage		3 ½%	4%
Joint Coverage + Increments	4%	4½%	
Dual Coverage		5%	5½%
Dual Coverage + Increments	5½%	6%	

3. Single coverage is a deduction for pension only (does not include Social Security). This coverage is no longer available (since September 1959). Joint Coverage includes Social Security but is subject to a 40% of Social Security deduction to be applied against the City pension. This offset can be eliminated by payment of 1½% of the salary earned since January 1960 or date of employment whichever is the earliest date. Upon payment of the offset the coverage is then known as dual coverage which entitles the employee to pension and Social Security without deduction of the offset.

(Ord. 13-1998, 4/27/1998, §4)

#### **§1-655. Right to and Amount of Pension Benefits.**

Every person now or hereafter elected or appointed to an office of, or employed by, the City of the age of 60 years and upwards who shall have so served as an employee for a period of 20 years or more, shall upon application to the board, be retired from service, and shall during the remainder of his life receive the compensation fixed by the provisions of Act No. 362, approved May 23, 1945, 53 P.S. §39374.1 et seq. and this Part, as amended.

1. If any person shall have served 20 years and voluntarily retires he shall, by continuing his contributions until the age of 55 be entitled to the above compensation.

2. During the lifetime of any such person he shall be entitled to receive as compensation annually from the fund set aside for the purpose 50% of the amount which would constitute the highest average annual salary or wages which he earned during any 5 years of his service for the City, or which would be determined by the rate of the monthly pay of such person at the date of retirement, whichever is higher. Said compensation shall be paid in semi-monthly payments.
3. Retirement compensation for members who are integrated into Federal Social Security payable after early or normal retirement age and upon that portion of annual compensation on which Social Security benefits are payable, shall be reduced by an amount of equal to 40% of the primary insurance amount of Social Security, paid or payable to the member. In determining such age eligibility and such amount, only wages or compensation for services performed in the employ of the City shall be included. (Note: These provisions change if the offset is eliminated by payment of the additional 1½% per cent of all salary and wages retroactive to January 1, 1960).
4. Widows or widowers of members who die or are killed in the service, shall receive pension payments calculated at the rate of 50% of the pension the member was receiving, or would have been receiving had the member been retired at the time of his or her death. A widow or widower is entitled to receive these payments during his or her lifetime or until he or she remarries.
5. Where an officer or employee who shall have served for 12 years, or more, and his tenure of office or employment shall be terminated without his voluntary action before the expiration of 20 years of service and has attained the age of 60 he shall, in such event, during the remainder of his life, be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full 20 year period of service. Where an officer or employee who has served for 12 years, or more, and shall not have attained 60 years of age and his tenure of office or employment shall be terminated without his voluntary action, before the expiration of 20 years of service, he shall, in such event, during the remainder of his life after attaining the age of sixty (60) years be entitled to receive such portion of the full compensation as the period of his service up to date of its termination bears to the full 20 year period of service. Both are conditioned upon his payment of contributions into the fund until he attains contribution for 20 years upon state of benefits of age 60 years.
6. Notwithstanding anything herein contained to the contrary a member may be entitled to a limited vested benefit under the following conditions:
  - A. A member who has completed 12 years or more of full-time continuous service but shall not have attained the minimum age and minimum period of continuous service may be entitled to vest his retirement benefits subject to all of the following conditions:
    - (1) The member must file with the Officers and Employees Retirement Board of the fund a written notice of his intention to vest.
    - (2) The member must include in the notice the date the member intends to terminate his service.
    - (3) The termination date shall be at least 30 days later than the date of notice to vest.
    - (4) The member must be in good standing with the City on the date of the notice to vest.

(5) The Board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any 5 years of service preceding that date, whichever is higher.

B. Upon reaching the date which would have been the member's retirement date had the member continued employment with the City, the member shall notify the board in writing that the member desires to collect his pension. The amount of retirement benefits the member is entitled to receive under this Section shall be computed as follows:

(1) The initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(2) The portion of the base retirement due the member shall be determined by applying to the base amounts the percentage that his years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the City until his minimum retirement date. As used in this Section, the term "salary" means the fixed amount of compensation paid at regular, periodic intervals by the City to the member and from which pension contributions have been deducted.

7. Where an officer or employee has served for 20 years, or more, and his tenure of office or employment shall be terminated without his voluntary action, then he shall be entitled to full compensation for the remainder of his life after attaining age 55 years conditioned upon his continuing his contributions into the fund at the same rate as when he was dismissed, until he attains age of 55 years.

*(Ord. 13-1998, 4/27/1998, §5)*

#### **§1-656. Disability Benefits.**

Should an officer or employee, however, become so permanently disabled as to render him unable to perform the duties of his position or office after 15 years of service, he shall be entitled to full compensation during such disability. Proof of such disability shall consist of the sworn statement of three practicing physicians, designated by the Board, that the employee is in a condition of health which would permanently disable him from performing the duties of his position or office. Such person shall thereafter be subject to physical examination at any reasonable time or times, upon order of the Board, and upon his refusal to submit to any such examination his compensation shall cease.

*(Ord. 13-1998, 4/27/1998, §6)*

#### **§1-657. Member Contributions.**

1. Beginning on November 1, 1946, all the aforesaid officers and employees of the City of Reading shall pay into such fund semimonthly an amount equal to 3% per centum of their monthly wages or salaries and beginning on January 1, 1960, all the aforesaid officers and employees of the City of Reading, who as members are integrated with Federal Social Security shall pay into such fund every payroll period an amount equal to 3 ½% of their earnings and 5% in excess of that on which Social Security is payable, which shall be applied to the purpose of this Part.

2. The Board hereby authorizes every joint coverage member of the optional retirement system to elect to receive compensation in accordance therewith without the reduction (commonly known as the "offset") set forth in Subsection (c) of the Act of the General Assembly of May 23, 1945, as amended, provided:
  - A. The member makes his election to buy out his offset in writing in manner and form approved by the Board.
  - B. The member makes his aforesaid election to buy out his offset before his date of retirement, which election to do so shall be irrevocable and forever binding upon the member.
  - C. The member making his election to buy out his offset shall make a lump sum payment equivalent to buy out his offset shall make a lump sum payment equivalent to 1½% of his gross payroll earnings from the date of his affirmative election, retroactive to January 1, 1960, or, as to a member who became employed by the City after January 1, 1960, then an amount equivalent to 1½% of his gross payroll earnings from the date of his affirmative election, retroactive to his date of employment by the City, after which time of lump sum payment, the member shall pay to the fund by payroll deduction an amount equivalent to 5% of his gross earnings to a maximum annual gross allowed by Social Security (i.e., \$65,400.00 for 1997).

(Ord. 13-1998, 4/27/1998, §7)

**§1-658. Additional Payments to Extend Benefits.**

If upon retirement any compensation be granted to a person who has not been a contributor to the fund, as herein provided, for an aggregate period of 20 years, such person shall be required to pay to the Board for the benefit of the fund, monthly an amount equal to the same per centum rate when he separated from the service of his compensation until such time as his contribution shall have been extended to a period of 20 years which shall be deducted from his semimonthly payment.

(Ord. 13-1998, 4/27/1998, §8)

**§1-659. Termination Prior to Benefit Entitlement.**

If for any cause per person contributing to the fund who has served less than 12 years shall cease to be in the service of the City, he shall become entitled to the total amount of the contributions paid into the funds by him, without interest. Any person who has served for a period of less than 20 years, and who has not reached the age of 60 years, and who voluntarily retires from such service shall be entitled only to the return of his total contributions paid into the funds by him without interest. Except in the event of the notification by a member to obtain a limited benefit but in such event such person shall still be covered by the provisions of this Section with respect to any refunds without interest.

(Ord. 13-1998, 4/27/1998, §9)

**§1-660. Refunds.**



If for any cause any person contributing to the fund shall cease to be in the service of the City before he shall have become entitled to any compensation, the total amount shall be refunded in full without interest. Provided, however, if any such person shall have had returned to him the amount contributed as aforesaid, and shall afterward re-enter the service of the City, he shall not be entitled to the compensation designated unless he shall return to the fund the amount withdrawn, in which event, the required period of service under this Part shall be computed from the time he first entered the service of the City, otherwise the date of his period of service shall commence upon re-entry. For those members who became a member of the fund for the first time after January 1, 1988, reference shall be made to Ordinance #79-1987, 9/30/1987, §9 (§1-679).

*(Ord. 13-1998, 4/27/1998, §10)*

**§1-661. Council Contributions.**

The City Council shall annually set aside, apportion and appropriate out of all taxes and income of the City to the fund, a sum of money sufficient to maintain the pension payable to members of the system including sufficient funds of payments to widows or widowers retired on pension or who dies or were killed in the service of the City.

*(Ord. 13-1998, 4/27/1998, §11)*

**§1-662. Benefits.**

The benefits conferred by this Part shall apply to all persons regularly employed in any capacity, by or holding positions in the City in accordance with the provisions of this Part, except as herein provided.

*(Ord. 13-1998, 4/27/1998, §12)*

**§1-663. Time of Service.**

1. The time of service herein specified shall be computed from the time of the first or original service to the City and need not be continuous.
2. If, after the expiration of authorized sick leave, an employee although without pay, is absent from work such employee, upon presentation of satisfactory evidence to the Board that such absence was because of health, will be given credit for pension purposes only for an additional period not exceeding 90 calendar days total during the entire period of service with the City; provided however said employee contributed to the pension fund for such period of absence an amount which is equal to the sum he would have contributed had he been working, based on his salary or wages, for a full regular work week at the contributing percentage in force for such employee.

*(Ord. 13-1998, 4/27/1998, §13)*

**§1-664. Military Service.**

1. The person must have been an employee of the City at the time he entered the armed forces. Any person who was an employee of the City on or after October 9, 1946, the date of the Ordinance, Bill No. 51, and who was an employee of the City prior thereto, may secure credit for time spent in

the armed forces, if he pays before the time of his retirement on pension into the pension fund, the amount equal to 3% of his last monthly salary or wage prior to entering active service with the armed services and for each month he was not employed by the City, because of such active duty. Any person now an employee of the City and a contributor to the pension fund and who now enters the armed forces shall have his years of service credited to his retirement, provided he pays 3% of his monthly salary or wages into the pension fund for each month spent in the armed services.

2. Credit for the years of service for military service shall not at any time exceed in the aggregate 6 years spent by the employee on active duty with the armed forces and subject to a certificate of satisfactory service and payment to the board of an amount equal to 3% of his monthly wages or salaries, and beginning on January 1, 1960, credit for such years of military service may be purchased by paying the board the same amount he was contributing at the time he left employ of the City to enter the armed forces of the United States, for each month he is not employed by the City because of his active duty with the armed forces.
3. **USERRA and HEART Requirements.** Effective December 12, 1994, any member who is absent on account of qualified military service and returns to City service within the period of time during which his reemployment rights are protected by federal law shall receive service credit, contributions, benefits and other rights provided under this Subsection in lieu of the service credit, contributions, benefits or other rights to which the member would otherwise be entitled under this Section, except to the extent the member would be entitled to more advantageous service credit, contributions, or benefits or more valuable rights under other provisions of this Section. A member described in this Subsection shall be credited with years of service for the full period of qualified military service, provided such member pays into the fund an amount equal to the contributions such member would have been required to make but for his absence on account of qualified military service, within the five-year period of time beginning on his reemployment date (or the lesser period of time beginning on such reemployment date that is three times the length of his qualified military service), and the City shall make all contributions that would have been due on account of such member contributions, and the member shall be entitled to all other rights and benefits accruing on account of such contributions and service. For purposes of this Subsection, a member shall be treated as having received compensation during his qualified military service based on the rate of compensation the member would have received but for his qualified military service compensation, or if such amount is not reasonably certain, his average compensation during the 12-month period immediately preceding his qualified military service (or, if shorter, the period of time immediately preceding his qualified military service). This Subsection shall be applied in a manner consistent with section 414(u) of the code.
  - A. Effective January 1, 2007, in the case of a member who dies while performing qualified military service, the member's surviving beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided herein as though the member had resumed employment with the City on the day before death and then terminated employment on account of death in accordance with section 401(a)(37) of the code.
  - B. Effective with respect to years beginning after December 31, 2008, for purposes of applying the limits on annual benefits and contributions and for purposes of applying other applicable provisions of the code, but not for purposes of determining benefits and contributions, "compensation" shall also include differential wage payments, as defined in section 3401(h) of the code, paid by the City to an employee on account of qualified military service.

(Ord. 13-1998, 4/27/1998, §14)

**§1-665. Payment Only to Beneficiary.**

Benefit payments shall not be subject to attachment, execution, assignment or transfer, and shall be payable only to the beneficiary designated by this Part and shall not be subject to assigned or transfer.

(Ord. 13-1998, 4/27/1998, §15)

**§1-666. Method of Payment.**

The payment of compensation shall be paid in semimonthly payments.

(Ord. 13-1998, 4/27/1998, §16)

**§1-667. Service Increment.**

1. In addition to the retirement allowance which is authorized to be paid from the pension fund by this Part, notwithstanding the limitation therein placed upon such retirement allowances and upon contributions, every member who shall become entitled to the retirement allowance shall be entitled to the payment of a “service increment” in accordance with and subject to the conditions hereinafter set forth:
  - A. Service increment shall be the sum obtained by computing the number of whole years after having served 20 years, required by this Part, during which a contributor has been employed by the City of Reading and paid out of the City treasury and multiplying the said number of years so computed by an amount equal to 1/40 of the retirement allowance which has become payable to such contributor in accordance with the provisions of this Act. In computing the service increment, no employment after the contributor has reached the age of 65 years shall be included.
  - B. Each contributor who so chooses to become entitled to the service increments provided by this Part, shall, from and after August 5, 1968, pay into the retirement fund a monthly sum in addition to his or her retirement contribution, which shall be equal to ½% of his or her salary; provided, that such service increment contribution shall not be paid after a contributor has reached the age of 65 years.
  - C. Persons who were contributors on August 5, 1968, who have since reached the age of 65 years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her sixty-fifth birthday.
  - D. Service increment contributions shall be paid at the same time and in the same manner as retirement contributions, and may be withdrawn in full, without interest, by persons who leave the employment of the said City, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

- E. All persons who are now contributors or were contributors to the retirement fund prior to January 1, 1988 shall be subject to the provisions of this Part.

(Ord. 13-1998, 4/27/1998, §17)

**§1-668. Federal Income Tax Exemption of Employee Contribution to Fund.**

1. Employee contributions to the fund shall be deemed to have been paid by the employer, the City, in lieu of compensation to the employee.
2. Employees do not have the option of choosing to receive the contributed amount directly in lieu of having them paid by the employer to the fund.
3. Employee contributions to the fund treated in the manner set forth in Subsection (1) shall be excluded from wages for the purpose of determining individual employee Federal Income Tax deduction of municipal wages earned.
4. This program shall not be applicable to any other Federal, State, or local payroll taxes. The deductions in all other instances shall occur per applicable schedule on compensation earned by the employee.
5. The earnings used to calculate the benefits received by an employee, at the time he or she withdraws from the fund or is eligible to receive a pension benefit, shall not be affected by the provisions of this Section. The earnings used to calculate the benefit shall be actual earnings received as set forth in § 1-655 of this Part.
6. The provisions of this Section shall not act to increase the City's contribution rate to the pension program.

(Ord. 13-1998, 4/27/1998, §18; as added by Ord. 52-1998, 12/28/1998, §1)

**§ 1-668.1. Direct Rollovers.**

1. Direct Rollovers. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this Subsection, on and after January 1, 1993 a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
2. For purposes of this Section, the following definitions shall apply:
  - A. Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under code section 401(a)(9); the portion of any distribution

that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution that is made upon hardship of a member. Notwithstanding anything in this paragraph to the contrary, for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code, or a governmental 457 plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not.

- B. Eligible retirement plan: An eligible retirement plan is an individual retirement account described in code section 408(a), an individual retirement annuity described in code section 408(b), a Roth IRA as pursuant to code section 408A(e), for distributions made after December 31, 2001 an annuity plan described in code section 403(a) or an annuity contract described in code section 403(b), a qualified trust described in code section 401(a), or for distributions made after December 31, 2001 an eligible plan under code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in code section 414(p). Effective in the case of an eligible rollover distribution to a surviving spouse before 2002 or to a beneficiary other than a surviving spouse after 2009, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- C. Distributee: A distributee includes any member. In addition, a member's surviving spouse and the member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. Effective with respect to distributions after 2009, a distributee also means a beneficiary of a member other than a surviving spouse.
- D. Direct rollover: A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

## **§ 1-668.2. Maximum Permissible Benefits and Contributions – Code Section 415.**

1. In General. Notwithstanding anything herein to the contrary, effective for limitation years beginning on or after January 1, 1995, the annual benefit (attributable to City contributions and pickup contributions treated as City contributions with respect to a member payable under the plan and all other defined benefit plans of the City, when expressed in the form of a straight life annuity, shall not exceed the “maximum permissible benefit.” Effective for limitation years beginning on or after January 1, 2008, in no case shall any amount accrue in a limitation year, with respect to a member under the plan or all other deferred benefits plans of the City, that would exceed the maximum permissible benefit. For purposes of this Section, the member's maximum permissible benefit shall equal the dollar limit prescribed in section 415(b)(1)(A) of the code (\$195,000 in 2011) or such other amount as may be prescribed under regulations issued by the U.S. Secretary of the Treasury under

section 415(d) of the code, adjusted in accordance with paragraphs (2), (3) and (4), below. In addition, the “annual additions,” as defined in section 415(c)(2) of the code, made by or on behalf on any member attributable to member contributions to the plan other than pickup contributions treated as City contributions, together with any annual additions, to any code section 401(a)-qualified defined contribution plan maintained by the City shall not exceed the maximum amount determined under section 415(c)(1) of the code for any limitation year. Solely for purposes of determining the maximum annual addition prescribed in section 415(c) of the code, compensation means a member’s wages as defined in section 3401(a) of the code and all other payments of compensation to the member from the City for which the City is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the code. Compensation shall be determined without regard to any rules that limit the compensation included in wages based on the nature or location of the employment or the services performed. Compensation shall include any amount which would otherwise be deemed compensation under this definition but for the fact that it is subject to a salary reduction agreement under any plan described in section 457(b), 132(f), or 125 of the code. Solely for this purpose, compensation also includes regular compensation received after such member’s severance from employment (as defined in Treas. Reg. § 1.415(a)-1(f)(5) (but not severance payments)); provided that payment of such compensation is made by the later of 2-1/2 months after the member’s severance from employment or the end of the calendar year that includes the member’s severance from employment; and provided further, that in order for these post-severance payments to be considered compensation for this purpose, these amounts may only consist of the following (which would otherwise constitute compensation): (i) regular compensation for services during the member’s regular working hours, or compensation for service outside the member’s regular work hours (such as overtime or shift differential), commission, bonuses, or similar payments, if such payment would have been paid to the member prior to severance from employment if the member had continued in employment with the City; (ii) payment for unused, accrued, bona fide sick, vacation or other leave (but only if the member would have been able to use the leave if employment had continued); and (iii) for plan years beginning on or after January 1, 2009, payments to members who do not currently perform services for the City by reason of qualified military service (as that term is defined in section 414(u)(1) of the code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service. Other types of payments paid to the member after severance from employment shall not be considered compensation for this purpose, even if paid within the time frame described above. In no event, however, shall compensation for this purpose include any amounts not permitted to be included under section 415 of the code.

2. Adjustment to the maximum permissible benefit. Adjustments shall be made to the maximum permissible benefit in accordance with paragraphs (A), (B) or (C) below:
  - A. If a member’s benefit is payable in any form other than a straight life annuity, the determination as to whether the limitation of this Section has been satisfied shall be made by adjusting such benefit to the form of a straight life annuity beginning when the payment of benefits begins. The adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greater of (1) the equivalent annual benefit computed using seven percent interest rate and GAM83 mortality table, and (2) the equivalent annual benefit computed using an interest assumption of five percent (for distributions made during plan years beginning in 2004 or 2005, 5.5 percent) and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. Notwithstanding the preceding sentence,

effective for plan years beginning after 2005, for purposes of determining whether any benefit payable as a lump sum satisfies the limitation of this Section, the adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greatest of: (x) the equivalent annual benefit computed using the interest rate and mortality table specified in the plan for actuarial equivalence for the particular form of benefit payable; (y) the equivalent annual benefit computed using an interest rate assumption of 5.5 percent and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code; and (z) the equivalent annual benefit computed using the interest rate specified in section 417(e)(3) of the code and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code divided by 1.05. However, for the purposes of such adjustment, any ancillary benefit that is not directly related to retirement income benefits and that portion of any joint and survivor annuity that is actuarially equivalent to the default form of payment benefit payable to a married member shall not be taken into account.

- B. If the benefit of a member who is not a “qualified participant,” as defined in section 415(b)(2)(H) of the code, begins before he or she reaches age sixty-two (other than on account of becoming disabled by reason of personal injuries or sickness or death), the maximum permissible benefit shall be adjusted in accordance with section 415(b) of the code, to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit determined under Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-two. (1) For limitation years beginning before July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the Unisex UP-84 Mortality Table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member’s age based on completed calendar months as of the annuity starting date) and (b) the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member’s annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two, both determined without applying the limitations of section 415 of the code. (3) For limitation years beginning prior to 2002, the reduction shall not reduce the maximum permissible benefit below \$75,000 if the benefit begins at or after age fifty-five, or, if the benefit begins before age fifty-five, the equivalent of the \$75,000 limit for age fifty-five. Any decrease in the maximum permissible benefit made in accordance with this paragraph shall not reflect a mortality decrement.
- C. If the benefit of a member begins after he or she reaches age sixty-five, the maximum permissible benefit of Subsection (1) shall be increased in accordance with section 415(b) of the code and the regulations there under to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible

benefit of Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-five. (1) For limitation years beginning before July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of (a) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the unisex UP-84 mortality table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate assumption and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of: (a) the actuarial equivalent (at such age) of the maximum permissible benefit using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the maximum permissible benefit multiplied by the ratio of the annual amount of the immediately commencing straight life annuity payable to the member, computed disregarding the member's accruals after age sixty-five, but including any actuarial adjustments even if those adjustments are applied to offset accruals, to the annual amount of the straight life annuity that would be payable under the plan to a hypothetical member who is sixty-five years old and has the same accrued benefit (with no actuarial increases for commencement after age sixty-five) as the member receiving the distribution (determined disregarding the member's accruals after age sixty-five and without applying the rules of section 415 of the code). For purposes of both (1) and (2) above, mortality between age sixty-five and the annuity starting date shall be ignored.

3. Lowest limitation of maximum permissible benefit. Except as provided in Subsection (4) hereof, the maximum permissible benefit shall never be deemed to be an amount which is less than \$10,000, provided the member is not, and has never been, a member in any code section 401(a)-qualified defined contribution plan of the employer.
4. Maximum permissible benefit applicable to certain members who have less than ten years of participation service with the City. The maximum permissible benefit applicable to any member, other than a retiree receiving disability benefits by reasons of personal injuries or sickness or beneficiaries, survivors, or the estate of a member, who has less than ten years of participation service with the City shall be equal to the lesser of the maximum permissible benefit or \$10,000 multiplied by a fraction, the numerator of which is the number of the member's years (or part thereof) of participation service in the plan as of and including the current limitation year, and the denominator of which is ten.
5. Limitation of accrued benefit if annual benefit exceeds maximum permissible benefit. If the member's annual benefit exceeds the maximum permissible benefit after the application of the appropriate factors, such member's accrued benefit shall be limited to an amount which produces an annual benefit equal to the maximum permissible benefit, adjusted, where applicable, as set forth in this Section.
6. For purposes of this Section, "participation service" means an accrual computation period for which the following conditions are met: (A) the member is credited with at least the period of service for benefit accrual purposes, required hereunder in order to accrue a benefit for the accrual computation period, and (B) the member is included in the plan for at least one day of the accrual



computation period. If these two conditions are met, participation service credited to the member hereunder shall equal the amount of benefit accrual service credited to the member for such accrual computation period.

**§ 1.668.3. Required Minimum Distributions – Code Section 401(a)(9).**

1. Notwithstanding any other provision herein, beginning after 1986, any and all benefit distributions made under the plan on or after shall be made in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the code, including the incidental death benefit requirements of section 401(a)(9). In accordance with this requirement, the following rules shall apply:
  - A. Distributions that begin during the member's lifetime shall begin no later than April 1 following the calendar year in which the member retires or the calendar year in which the member attains age seventy and one-half and be distributed over the life of the member or the joint lives of the member and his beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his beneficiary).
  - B. If a member dies before his entire interest has been distributed, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.
  - C. If the member dies before receiving any distributions from the plan and (A) the death benefit is payable to his surviving spouse, such death benefit shall be distributed over a period not exceeding such spouse's life (or life expectancy) beginning no later than: (1) December 31 of the calendar year immediately following the calendar year in which the member died, or (2) December 31 of the calendar year in which the member would have attained age seventy and one-half; (B) the death benefit is payable to a designated beneficiary other than the member's surviving spouse, such death benefit shall be distributed to such beneficiary over a period not exceeding the beneficiary's life (or life expectancy) beginning no later than December 31 of the calendar year following the member's death; and (C) if the death benefit is not payable to the member's surviving spouse or designated beneficiary, the member's entire interest will be paid no later than December 31 of the calendar year which includes the fifth anniversary of the member's date of death.

**§ 1.668.4. Miscellaneous.**

1. Construction. The masculine gender includes the feminine and the singular includes the plural, unless the context clearly indicates otherwise.
2. Governing Law. The plan and fund are governed by the Third Class City Code of Pennsylvania. The plan is a governmental plan as defined in section 414(d) of the code and section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and as such is exempt from the requirements of ERISA and those requirements of the code from which a governmental plan is specifically exempt.
3. Pre-ERISA Vesting Requirement. In the event of the plan's termination or the City's permanent cessation of contributions, each member shall be vested to the extent the plan is funded.

4. Reemployment Rights of Veterans. Notwithstanding anything in this plan to the contrary, benefits contributions, and service credit with respect to qualified military service (as defined in section 414(u)(5) of the code) will be provided in accordance with section 414(u) of the code.
5. Amendments. The City Council shall have the authority to amend, freeze, or terminate the plan in its sole discretion, subject to any limitations imposed by applicable law.

**For the City of Reading, Pennsylvania**  
**By its City Council**

---

**Signature**

---

**Name and Title**

---

**Date**

## **Appendix A**

### **Corrective Retroactive Amendments**

#### **A-1. Definition of "Compensation" is limited as follows:**

- A. For Plan Years Beginning on or after January 1, 1989 and before January 1, 1994. Effective as of the first day of the first plan year beginning after 1988 and ending before 1994, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$200,000 (as adjusted under section 401(a)(17) of the code).
- B. For Plan Years Beginning on or after January 1, 1994 and before January 1, 2002. Effective for plan years beginning on or after January 1, 1994 and before January 1, 1997, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$150,000 (as adjusted under section 401(a)(17) of the code). For plan years beginning on or after January 1, 1997 and before January 1, 2002, any reference herein to the limitation under section 401(a)(17) of the code shall mean the limit described herein; specifically, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The adjustment to the compensation limit under section 401(a)(17) of the code in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefit in the current plan year, the compensation for that prior determination period is subject to the limit described herein as in effect for that prior determination period.
- C. Plan Years Beginning on or after January 1, 2002. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December

31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or the determination period. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

## **A-2. Section 415 Limits on Accrued Benefits.**

- A. In General. Notwithstanding anything in the retirement system to the contrary, the limitations on benefits and contributions contained in section 415 of the code are generally applicable to benefits payable under the system effective for plan years after December 31, 1975; except, however, a person who was an active member before October 3, 1973 whose annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954 (the 1954 code)) does not exceed 100 percent of his annual rate of compensation on the earlier of (i) October 2, 1973 or (ii) the date on which he separated from City service, and such annual benefit is not greater than the annual benefit which would have been payable to the such member on retirement if (i) all the terms and conditions of the system in existence on such date had remained in existence until such retirement and (ii) his compensation taken into account for any period after October 2, 1973 had not exceeded his annual rate of compensation on such date, and in the case of a member who separated from City service prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from service, then such annual benefit shall be treated as not exceeding the limitations of subsection 415(b) of the 1954 code.
- B. Combined Limit. Without negating the generality of A-2(a), for limitation years beginning after December 31, 1975 and before January 1, 2000, if a member participates in one or more defined benefit plans and makes member contributions other than contributions treated as pickup contributions or participates in one or more code section 401(a)-qualified defined contribution plans, or a welfare benefit fund as defined in section 419(e) of the code, under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in section 419A(d)(3) of the code, or an individual medical account, as defined in section 415(l)(2) of the code, which is part of a pension or annuity plan, the member's accrued benefit under the system shall be adjusted to the extent required, if at all, so that the sum of the defined benefit fraction and the defined contribution fraction for any limitation year shall not exceed 1.4 (effective January 1, 1982, 1.0).
- (1) Defined Benefit Fraction. The defined benefit fraction for any limitation year is a fraction (a) the numerator of which is the member's projected annual benefit (determined as of the close of the limitation year) under all such defined benefit plans (whether or not terminated), and (b) the denominator of which is (i) the sum of the maximum amount of annual additions to such account which could have been made for each year and for each prior year, and (ii) effective January 1, 1982, the lesser of (A) \$90,000, or the applicable dollar limit under section 415(b) of the code for such limitation year multiplied by 1.25, or (B) for limitation years ending before 1995, the member's average annual compensation for

the three consecutive calendar years of active participation, that produce the highest average, multiplied by 1.4.

(2) Defined Contribution Fraction. The defined contribution fraction for any limitation year is a fraction (i) the numerator of which is the total of the amount treated as annual additions, under section 415(c) of the code, to the member's accounts as of the close of the limitation year under all defined contribution plans (whether or not terminated), and (ii) the denominator of which is the lesser of the following amounts determined for the limitation year and for each prior limitation year for which the member was an employee (regardless of whether any plan was in existence during such year):

(a) \$30,000, or the applicable dollar limit for each such limitation year, multiplied by 1.25,  
or

(b) 35% of the member's compensation, for each such limitation year.

**City of Reading New Officers and Employees Retirement Plan**  
**Explanation of Code Amendments**

§ 1-672

Definition of

“Compensation”    The definition of “compensation” as used in the Plan Document has been amended to comply with the current requirements of section 401(a)(17) of the Code.

§ 1-672

Definition of

“Qualified

Military Service    This section contains the definition of “qualified military service” linked to the same definition in USERRA.

§ 1.677(2)

This section has been amended to reflect the requirements of USERRA and HEART.

§ 1.683

This section contains the currently required Code section 415(b) provisions, including applicable effective dates for various required changes to such provisions.

§ 1.683.1

This section contains the good-faith compliance provisions of Code section 401(a)(9).

§ 1.683.2

This section contains the currently required direct rollover provisions, including the applicable effective dates for various required changes to such provisions.

§ 1.683.3

This section contains the pre-ERISA vesting requirement.

Appendix A

A-1

These provisions set forth the specific provisions of Code section 401(a)(17) that pre-date, and have been superseded by, the current definition of “pay, salary, wages or compensation” contained in § 1.672 – Definitions. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.

Appendix A

A-2

These provisions set forth the superseded requirements of Code section 415(b). As indicated above, the currently required Code section 415(b) provisions are set forth in §1.683 of the Plan document. These provisions have been placed in Appendix A because they are no longer applicable and have been included as retroactive amendments needed for the Group Submission VCP application.

Numerous non-substantial, non-Code amendments have been made to the Plan Document, none of which affect the Code provisions.

**BILL NO. \_\_\_\_\_**

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, CHAPTER 1 ADMINISTRATION AND GOVERNMENT, PART 6 PENSIONS, D. NEW OFFICERS AND EMPLOYEES PENSION, SECTIONS 1-671 ET SEQ.**

**THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. The Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 Administration and Government, Part 6 Pensions, D. New Officers and Employees Pension, Sections 1-671 et seq shall be and are hereby amended and shall hereafter be set forth as shown in Exhibit A attached hereto and made a part hereof.**

**SECTION 2. All other items, parts, sections, etc. of the Code of Ordinances of the City of Reading, Berks County, Pennsylvania, Chapter 1 which are contrary to the amended sections attached as Exhibit A are hereby repealed; otherwise all other parts, sections, etc. of said Code and Chapter shall remain in effect unchanged and likewise are ratified.**

**SECTION 3. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.**

**Enacted \_\_\_\_\_, 2013**

\_\_\_\_\_  
**President of Council**

**Attest:**

\_\_\_\_\_  
**City Clerk**

**City of Reading  
New Officers and Employees Pension Fund**

**Effective January 1, 2012**

*Prepared by Hay Group  
100 Penn Square East  
Philadelphia, PA 19017*

**PART 6**  
**PENSIONS**

**D. New Officers and Employees Pension Fund.**

- §1-671. Purpose
  - §1-671.1. Trust Provisions
- §1-672. Definitions
- §1-673. Normal Retirement
- §1-674. Basic Benefit
- §1-675. Service Increments
- §1-676. Early Retirement
- §1-677. Accrued Pension
- §1-678. Disability Benefits
- §1-679. Survivor Benefits
- §1-680. Vesting
- §1-681. Member Contributions
- §1-682. Refund of Contribution or Rollover
- §1-683. Maximum Permissible Benefits and Contributions – Code Section 415
  - §1-683.1. Required Minimum Distributions – Code Section 401(a)(9)
  - §1-683.2. Direct Rollovers
  - §1-683.3. Miscellaneous



## **PART 6**

### **PENSIONS**

#### **D. New Officers and Employees Pension Fund.**

##### **§1-671. Purpose**

1. The purpose of this Part 6D is to establish benefits payable to officers and employees, other than policemen or firemen, or beneficiaries of such officers or employees who are elected or appointed to the staff of the City, for the first time, on or after January 1, 1988.

*(Ord. 79-1987, 4/27/1987, §A)*

##### **§1-672. Definitions.**

For purposes of this Part 6D, the following terms shall have the meanings herein defined unless the context clearly indicates a contrary intention.

**ANNUAL COMPENSATION** - in a calendar year means the total of the monthly compensation of each of the 12 months in such year.

**AVERAGE MONTHLY COMPENSATION** – a member's average monthly compensation for the highest consecutive 5 years out of the last 10 years.

**BOARD** - the Officers and Employees Pension Fund Board.

**BOARD ADMINISTRATOR** - the position designated by the board to act on behalf of the board in matters of day-to-day administration of the plan.

**CITY** - the City of Reading, Pennsylvania.

**CODE** – the United States Internal Revenue Code, as amended, including reference, where applicable, to regulations and other guidance issued by the United States Department of Treasury and the Commissioner of the Internal Revenue Service.

**COMPENSATION** - means pickup contributions plus remuneration received as a City employee excluding refunds for expenses, contingency and accountable expense allowances and excluding severance payments or payments for unused vacation or unused sick leave or comp time that is paid upon termination. Compensation includes amounts excluded from income pursuant to a member's election under a cash or deferred compensation arrangement described in sections 401(k) of the code, an eligible deferred compensation plan described in section 457(b) of the code, a cafeteria plan described in section 125 of the code, and, effective January 1, 1998, a qualified transportation fringe benefit plan under section 132(f) of the code. Notwithstanding the preceding the annual compensation of a member shall be limited as set forth in section 401(a)(17) of the code (as adjusted annually pursuant to section 401(a)(17)(B) of the code and announcement by the Internal Revenue Service; for 2011,

\$245,000). Compensation for any prior year shall be subject to the limitations set forth in Appendix A, A-1. If compensation for any prior determination period is taken into account in determining a member's benefits for the current year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

**FUND** - the City of Reading Officers and Employees Pension Fund.

**MONTHLY COMPENSATION** - consists of basic monthly compensation plus longevity payments but excludes overtime pay, educational incentive payments, bonuses, payments in lieu of dependent's health insurance costs, and other special forms of compensation.

**MEMBER** - an officer or employee who is elected or appointed to an office of, or employed by, the City and becomes a member of the pension fund, for the first time, on or after January 1, 1988. It does not include policemen or firemen. Membership of eligible officers and employees is a required condition of employment. An officer or employee who becomes a member of the Officers and Employees Retirement System before January 1, 1988, shall remain subject to Part 6C of the Codified Ordinances of the City of Reading entitled "Officers and Employees Retirement System." Any officer or employee who is re-appointed on or after January 1, 1988, having had previous employment prior to January 1, 1988, shall be subject to the pension provisions applying to persons employed prior to January 1, 1988, i.e., *Ord. 13-1998, 4/27/1998 (Part 6A)*.

*(Ord. 79-1987, 4/27/1987, §B)*

**PLAN (or SYSTEM)** - the New Officers and Employees Pension Plan.

**QUALIFIED MILITARY SERVICE** - any service in the uniformed services (as defined in chapter 3 of title 38, United States Code), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

**SPOUSE** – the spouse of a member, as determined under law of the Commonwealth of Pennsylvania. Effective for designations made after December 31, 2006, a member may designate his/her spouse to be the beneficiary of the member's pension, regardless of the date of the marriage.

#### **§1-672.1 Trust Provisions.**

The Officers and Employees Retirement Board, as constituted under § 1-653, shall serve as the board of the plan and shall administer the plan consistent with its duties under § 1-653 and the terms of this plan. The board shall serve as the fund trustees and the assets of the fund shall be held in trust for the exclusive benefit of the members of the Officers and Employees Plan and this Plan and their beneficiaries, and a reversion of fund assets or a return of City contributions is prohibited, except as otherwise provided by applicable law or IRS Revenue Ruling 91-4. The board may use fund assets to pay the reasonable costs of administering the plan, consistent with the requirements of § 1.653.1.

**§1-673. Normal Retirement.**

A member shall be eligible for normal retirement after attainment of age 65 and completion of 10 years of service.

*(Ord. 79-1987, 4/27/1987, §C)*

**§1-674. Basic Benefit.**

The basic benefit for a member who has met the eligibility requirements for normal retirement is a monthly pension equal to 2% of the member's average monthly compensation, multiplied by the number of years of service completed by the member, up to a maximum of 25 years of service. Such monthly pension shall be payable for the life of the member with payments continuing after the member's death to the member's spouse equal to 50% of the amount payable to the member on the day of his death. Such member must have been married to the spouse for at least 1 year prior to the date of the member's death in order for the payments to continue to the spouse.

*(Ord. 79-1987, 4/27/1987, §D)*

**§1-675. Service Increment.**

A member who has completed in excess of 25 years of service shall receive an additional incremental monthly pension equal to 1.25% of average monthly compensation for the highest consecutive 5 years out of the last 10 years preceding his/her date of retirement, multiplied by the number of years of service completed by the member in excess of 25 years of service.

*(Ord. 79-1987, 4/27/1987, §E)*

**§1-676. Early Retirement.**

A member is eligible for early retirement after attainment of age 50 and completion of 10 years of service. The early retirement benefit shall be equal to the member's accrued pension, as hereinafter defined in §1-677, accrued to the date of early retirement, reduced by 1/3 of 1% for each month that the member's early retirement date precedes his/her normal retirement date.

*(Ord. 79-1987, 4/27/1987, §F)*

**§1-677. Accrued Pension.**

1. The accrued pension of a member at any determination date shall be equal to 2% of the member's average monthly compensation multiplied by the number of years of service completed by the member at such date, up to a maximum of 25 years of service. In addition, the accrued pension shall also include an incremental pension of 1.25% of average monthly

compensation, multiplied by the number of years of service completed by the member at such date in excess of 25 years of service.

(Ord. 79-1987, 4/27/1987, §G)

2. **USERRA and HEART Requirements.** Effective December 12, 1994, any member who is absent on account of qualified military service and returns to City service within the period of time during which his reemployment rights are protected by federal law shall receive service credit, contributions, benefits and other rights provided under this Subsection in lieu of the service credit, contributions, benefits or other rights to which the member would otherwise be entitled under this Section, except to the extent the member would be entitled to more advantageous service credit, contributions, or benefits or more valuable rights under other provisions of this Section. A member described in this Subsection shall be credited with years of service for the full period of qualified military service, provided such member pays into the fund an amount equal to the contributions such member would have been required to make but for his absence on account of qualified military service, within the five-year period of time beginning on his reemployment date (or the lesser period of time beginning on such reemployment date that is three times the length of his qualified military service), and the City shall make all contributions that would have been due on account of such member contributions, and the member shall be entitled to all other rights and benefits accruing on account of such contributions and service. For purposes of this Subsection, a member shall be treated as having received compensation during his qualified military service based on the rate of compensation the member would have received but for his qualified military service compensation, or if such amount is not reasonably certain, his average compensation during the 12-month period immediately preceding his qualified military service (or, if shorter, the period of time immediately preceding his qualified military service). This Subsection shall be applied in a manner consistent with section 414(u) of the code.

(A) Effective January 1, 2007, in the case of a member who dies while performing qualified military service, the member's surviving beneficiary shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided herein as though the member had resumed employment with the City on the day before death and then terminated employment on account of death in accordance with section 401(a)(37) of the code.

(B) Effective with respect to years beginning after December 31, 2008, for purposes of applying the limits on annual benefits and contributions and for purposes of applying other applicable provisions of the code, but not for purposes of determining benefits and contributions, "compensation" shall also include differential wage payments, as defined in section 3401(h) of the code, paid by the City to an employee on account of qualified military service.

## **§1-678. Disability Benefits.**

If a member becomes disabled, he/she shall be entitled to a monthly disability benefit. The monthly disability benefit shall be equal to the benefit accrued as of the date of disability. The minimum disability benefit shall be equal to 20% of such member's average monthly compensation. In the event a member becomes disabled prior to being employed by the City for a period of 10 years, the benefits shall be calculated as follows: average monthly compensation for the highest consecutive 5 years out of a total period of employment will be used. If a member has completed less than 5 years of service as of the date of disability, average monthly compensation for the entire period of employment will be used. In the event the member works less than a month prior to his disability, the average monthly compensation shall be determined by annualizing the compensation that the employee received on a daily basis so as to establish an average "monthly compensation."

(*Ord. 79-1987, 4/27/1987, §H; as amended by Ord. 79-2010, 10/25/2010, §1*)

**§1-679. Survivor Benefits.**

If a member is eligible for early retirement and dies while employed by the City, a monthly pension shall be payable to the member's spouse for the spouse's lifetime equal to 50% of the monthly pension the member was eligible to receive had he/she been retired as of the day of his/her death. Such member must have been married to the spouse for at least one year prior to the date of the member's death in order for the spouse to qualify for this benefit.

(*Ord. 79-1987, 4/27/1987, §I*)

**§1-680. Vesting.**

If a member terminates City employment prior to meeting the eligibility requirements for retirement under the plan but after having completed 10 years of service, he shall be entitled to vest in his/her accrued pension and receive his/her pension benefit when such member attains normal retirement age by filing with the City a written notice of his/her intention to vest, within 90 days of the date of his/her termination. Upon reaching the date which he/she would have been eligible for normal retirement if he/she had continued to be employed by the City, such member shall be paid a monthly pension benefit equal to the benefit accrued as of the date of termination. However, the member may elect to receive his/her monthly pension benefit after he/she has met the eligibility requirements for early retirement and prior to attaining normal retirement, in which case, the monthly pension benefit payable to the member shall be equal to the benefit accrued as of the date of termination, reduced by 1/3 of 1% for each month by which the member's early retirement date precedes his normal retirement date.

(*Ord. 79-1987, 4/27/1987, §J*)

**§1-681. Member Contributions.**

All members shall pay into the fund monthly, 3% of gross monthly compensation, beginning with the member's date of hire in an eligible position.

(Ord. 79-1987, 4/27/1987, §K)

**§1-682. Refund of Contribution or Rollover.**

Provided a member has not filed an election to vest under §1-680, and 90 days has passed since member's employment was terminated, on termination of full-time employment, before a member has met the eligibility requirements for early retirement, a refund or a direct rollover, if elected, shall be made of all contributions paid into the fund by such member with interest compounded at the rate of 5% per annum. The member shall have 90 days from the date of termination of full-time employment to elect a direct rollover or a distribution by providing to the board administrator the appropriate form evidencing such election. The form shall be prepared by the board administrator and approved by the board. Direct rollovers shall be administered in accordance with Section 1.683.2. In the case of the member's death after his/her election and prior to the fund's distribution, such refund shall be paid to the member's designated beneficiary, or, in the absence of such designation, to the member's estate. Any member who leaves employment subject to the provisions of this Part and is re-appointed, shall receive credit for prior years of service only by repaying repay to the fund the amount refunded by the fund with interest compounded at the rate of 5% per annum from the date of refund by the fund to the date of payment which shall be made within 1 year from the date of re-appointment. In the event the payment is not made within the specified time limit, the right to obtain credit for prior years of service shall be lost for the applicable prior years' period and any repayments shall be refunded without interest.

(Ord. 79-1987, 4/27/1987, §L; as amended by Ord. 100-1993, 9/15/1993, §1; and by Ord. 85-2010, 10/25/2010, §1)

**§ 1-683. Maximum Permissible Benefits and Contributions – Code Section 415.**

1. In General. Notwithstanding anything herein to the contrary, effective for limitation years beginning on or after January 1, 1995, the annual benefit (attributable to City contributions and pickup contributions treated as City contributions with respect to a member payable under the plan and all other defined benefit plans of the City, when expressed in the form of a straight life annuity, shall not exceed the "maximum permissible benefit." Effective for limitation years beginning on or after January 1, 2008, in no case shall any amount accrue in a limitation year, with respect to a member under the plan or all other deferred benefits plans of the City, that would exceed the maximum permissible benefit. For purposes of this Section, the member's maximum permissible benefit shall equal the dollar limit prescribed in section 415(b)(1)(A) of the code (\$195,000 in 2011) or such other amount as may be prescribed under regulations issued by the U.S. Secretary of the Treasury under section 415(d) of the code, adjusted in accordance with paragraphs (2), (3) and (4), below. In addition, the "annual additions," as defined in section 415(c)(2) of the code, made by or on behalf on any member attributable to member contributions to the plan other than pickup contributions treated as City contributions, together with any annual additions, to any code section 401(a)-qualified defined contribution plan maintained by the City shall not exceed the maximum amount determined under section 415(c)(1) of the code for any limitation year. Solely for purposes of determining the maximum annual addition prescribed in section 415(c) of the code, compensation means a member's wages as defined in section 3401(a)

of the code and all other payments of compensation to the member from the City for which the City is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the code. Compensation shall be determined without regard to any rules that limit the compensation included in wages based on the nature or location of the employment or the services performed. Compensation shall include any amount which would otherwise be deemed compensation under this definition but for the fact that it is subject to a salary reduction agreement under any plan described in section 457(b), 132(f), or 125 of the code. Solely for this purpose, compensation also includes regular compensation received after such member's severance from employment (as defined in Treas. Reg. § 1.415(a)-1(f)(5) (but not severance payments)); provided that payment of such compensation is made by the later of 2-1/2 months after the member's severance from employment or the end of the calendar year that includes the member's severance from employment; and provided further, that in order for these post-severance payments to be considered compensation for this purpose, these amounts may only consist of the following (which would otherwise constitute compensation): (i) regular compensation for services during the member's regular working hours, or compensation for service outside the member's regular work hours (such as overtime or shift differential), commission, bonuses, or similar payments, if such payment would have been paid to the member prior to severance from employment if the member had continued in employment with the City; (ii) payment for unused, accrued, bona fide sick, vacation or other leave (but only if the member would have been able to use the leave if employment had continued); and (iii) for plan years beginning on or after January 1, 2009, payments to members who do not currently perform services for the City by reason of qualified military service (as that term is defined in section 414(u)(1) of the code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service. Other types of payments paid to the member after severance from employment shall not be considered compensation for this purpose, even if paid within the time frame described above. In no event, however, shall compensation for this purpose include any amounts not permitted to be included under section 415 of the code.

2. Adjustment to the maximum permissible benefit. Adjustments shall be made to the maximum permissible benefit in accordance with paragraphs (A), (B) or (C) below:

A. If a member's benefit is payable in any form other than a straight life annuity, the determination as to whether the limitation of this Section has been satisfied shall be made by adjusting such benefit to the form of a straight life annuity beginning when the payment of benefits begins. The adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greater of (1) the equivalent annual benefit computed using seven percent interest rate and GAM83 mortality table, and (2) the equivalent annual benefit computed using an interest assumption of five percent (for distributions made during plan years beginning in 2004 or 2005, 5.5 percent) and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. Notwithstanding the preceding sentence, effective for plan years beginning after 2005, for purposes of determining whether any benefit payable as a lump sum satisfies the limitation of this Section, the adjustment described in the preceding sentence shall be made in the manner prescribed by the U.S. Secretary of the Treasury, such that the equivalent annual benefit would be the greatest of: (x) the

equivalent annual benefit computed using the interest rate and mortality table specified in the plan for actuarial equivalence for the particular form of benefit payable; (y) the equivalent annual benefit computed using an interest rate assumption of 5.5 percent and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code; and (z) the equivalent annual benefit computed using the interest rate specified in section 417(e)(3) of the code and the mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code divided by 1.05. However, for the purposes of such adjustment, any ancillary benefit that is not directly related to retirement income benefits and that portion of any joint and survivor annuity that is actuarially equivalent to the default form of payment benefit payable to a married member shall not be taken into account.

- B. If the benefit of a member who is not a “qualified participant,” as defined in section 415(b)(2)(H) of the code, begins before he or she reaches age sixty-two (other than on account of becoming disabled by reason of personal injuries or sickness or death), the maximum permissible benefit shall be adjusted in accordance with section 415(b) of the code, to an amount (beginning when the payment of benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit determined under Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-two. (1) For limitation years beginning before July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the Unisex UP-84 Mortality Table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the defined benefit dollar limitation applicable at an age prior to age sixty-two is determined as the lesser of (a) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member’s age based on completed calendar months as of the annuity starting date) and (b) the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member’s annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age sixty-two, both determined without applying the limitations of section 415 of the code. (3) For limitation years beginning prior to 2002, the reduction shall not reduce the maximum permissible benefit below \$75,000 if the benefit begins at or after age fifty-five, or, if the benefit begins before age fifty-five, the equivalent of the \$75,000 limit for age fifty-five. Any decrease in the maximum permissible benefit made in accordance with this paragraph shall not reflect a mortality decrement.
- C. If the benefit of a member begins after he or she reaches age sixty-five, the maximum permissible benefit of Subsection (1) shall be increased in accordance with section 415(b) of the code and the regulations there under to an amount (beginning when the payment of



benefits begins) that is actuarially equivalent to an annual benefit equal to the maximum permissible benefit of Subsection (1) (adjusted through the limitation year when payment of benefits begins for increases in the cost of living in accordance with section 415(d) of the code) beginning at age sixty-five. (1) For limitation years beginning before July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of (a) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate and the unisex UP-84 mortality table and (b) the actuarial equivalent (at such age) of the maximum permissible benefit computed using a five percent interest rate assumption and the applicable mortality table prescribed by the U.S. Secretary of the Treasury under section 415(b)(2)(E)(v) of the code. (2) For limitation years beginning on or after July 1, 2007, the actuarial equivalent of the maximum permissible benefit applicable at an age after age sixty-five is the lesser of: (a) the actuarial equivalent (at such age) of the maximum permissible benefit using a five percent interest rate and the applicable mortality table within the meaning of section 417(e)(3)(B) of the code (and expressing the member's age based on completed calendar months as of the annuity starting date) and (b) the maximum permissible benefit multiplied by the ratio of the annual amount of the immediately commencing straight life annuity payable to the member, computed disregarding the member's accruals after age sixty-five, but including any actuarial adjustments even if those adjustments are applied to offset accruals, to the annual amount of the straight life annuity that would be payable under the plan to a hypothetical member who is sixty-five years old and has the same accrued benefit (with no actuarial increases for commencement after age sixty-five) as the member receiving the distribution (determined disregarding the member's accruals after age sixty-five and without applying the rules of section 415 of the code). For purposes of both (1) and (2) above, mortality between age sixty-five and the annuity starting date shall be ignored.

3. Lowest limitation of maximum permissible benefit. Except as provided in Subsection (4) hereof, the maximum permissible benefit shall never be deemed to be an amount which is less than \$10,000, provided the member is not, and has never been, a member in any code section 401(a)-qualified defined contribution plan of the employer.
4. Maximum permissible benefit applicable to certain members who have less than ten years of participation service with the City. The maximum permissible benefit applicable to any member, other than a retiree receiving disability benefits by reasons of personal injuries or sickness or beneficiaries, survivors, or the estate of a member, who has less than ten years of participation service with the City shall be equal to the lesser of the maximum permissible benefit or \$10,000 multiplied by a fraction, the numerator of which is the number of the member's years (or part thereof) of participation service in the plan as of and including the current limitation year, and the denominator of which is ten.
5. Limitation of accrued benefit if annual benefit exceeds maximum permissible benefit. If the member's annual benefit exceeds the maximum permissible benefit after the application of the appropriate factors, such member's accrued benefit shall be limited to an amount which produces an annual benefit equal to the maximum permissible benefit, adjusted, where applicable, as set forth in this Section.

6. For purposes of this Section, “participation service” means an accrual computation period for which the following conditions are met: (A) the member is credited with at least the period of service for benefit accrual purposes, required hereunder in order to accrue a benefit for the accrual computation period, and (B) the member is included in the plan for at least one day of the accrual computation period. If these two conditions are met, participation service credited to the member hereunder shall equal the amount of benefit accrual service credited to the member for such accrual computation period.

**§ 1-683.1. Required Minimum Distributions – Code Section 401(a)(9).**

Notwithstanding any other provision herein, beginning after 1986, any and all benefit distributions made under the plan on or after shall be made in accordance with a reasonable and good faith interpretation of section 401(a)(9) of the code, including the incidental death benefit requirements of section 401(a)(9). In accordance with this requirement, the following rules shall apply:

1. Distributions that begin during the member’s lifetime shall begin no later than April 1 following the calendar year in which the member retires or the calendar year in which the member attains age seventy and one-half and be distributed over the life of the member or the joint lives of the member and his beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his beneficiary).
2. If a member dies before his entire interest has been distributed, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member’s death.
3. If the member dies before receiving any distributions from the plan and (A) the death benefit is payable to his surviving spouse, such death benefit shall be distributed over a period not exceeding such spouse’s life (or life expectancy) beginning no later than: (1) December 31 of the calendar year immediately following the calendar year in which the member died, or (2) December 31 of the calendar year in which the member would have attained age seventy and one-half; (B) the death benefit is payable to a designated beneficiary other than the member’s surviving spouse, such death benefit shall be distributed to such beneficiary over a period not exceeding the beneficiary’s life (or life expectancy) beginning no later than December 31 of the calendar year following the member’s death; and (C) if the death benefit is not payable to the member’s surviving spouse or designated beneficiary, the member’s entire interest will be paid no later than December 31 of the calendar year which includes the fifth anniversary of the member’s date of death.

**§ 1-683.2. Direct Rollovers.**

1. Direct Rollovers. Notwithstanding any provision herein to the contrary that would otherwise limit a distributee's election under this Subsection, on and after January 1, 1993 a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this Section, the following definitions shall apply:

- A. Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under code section 401(a)(9); the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution that is made upon hardship of a member. Notwithstanding anything in this paragraph to the contrary, for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the code, or a governmental 457 plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not.
- B. Eligible retirement plan: An eligible retirement plan is an individual retirement account described in code section 408(a), an individual retirement annuity described in code section 408(b), a Roth IRA as pursuant to code section 408A(e), for distributions made after December 31, 2001 an annuity plan described in code section 403(a) or an annuity contract described in code section 403(b), a qualified trust described in code section 401(a), or for distributions made after December 31, 2001 an eligible plan under code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in code section 414(p). Effective in the case of an eligible rollover distribution to a surviving spouse before 2002 or to a beneficiary other than a surviving spouse after 2009, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- C. Distributee: A distributee includes any member. In addition, a member's surviving spouse and the member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. Effective with respect to distributions after 2009, a distributee also means a beneficiary of a member other than a surviving spouse.

- C. Direct rollover: A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

**§1-683.3. Miscellaneous.**

1. Nonrepealer and Severability.

- A. This Part does not repeal the existing City ordinance outlining the provisions of the City of Reading Officers and Employees' Pension Fund but establishes new provisions for officers and employees hired on or after January 1, 1988 (Part 6A). The provisions of this Part are severable, and if any of the provisions shall be held to be illegal, invalid or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intent of Council that this Part would have been adopted if such illegal, invalid or unconstitutional provision or provisions had not been included herein. (*Ord. 79-1987, 4/27/1987, §M*)
2. Construction. The masculine gender includes the feminine and the singular includes the plural, unless the context clearly indicates otherwise.
3. Governing Law. The plan and fund are governed by the Third Class City Code of Pennsylvania. The plan is a governmental plan as defined in section 414(d) of the code and section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and as such is exempt from the requirements of ERISA and those requirements of the code from which a governmental plan is specifically exempt.
4. Pre-ERISA Vesting Requirement. In the event of the plan's termination or the City's permanent cessation of contributions, each member shall be vested to the extent the plan is funded.
5. Reemployment Rights of Veterans. Notwithstanding anything in this plan to the contrary, benefits contributions, and service credit with respect to qualified military service (as defined in section 414(u)(5) of the code) will be provided in accordance with section 414(u) of the code.
6. Amendments. The City Council shall have the authority to amend, freeze, or terminate the plan in its sole discretion, subject to any limitations imposed by applicable law.

**For the City of Reading, Pennsylvania  
By its City Council**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Name and Title**

## **Appendix A**

### **Corrective Retroactive Amendments**

#### **A-1. Definition of “Compensation” is limited as follows:**

- A. For Plan Years Beginning on or after January 1, 1989 and before January 1, 1994. Effective as of the first day of the first plan year beginning after 1988 and ending before 1994, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$200,000 (as adjusted under section 401(a)(17) of the code).
- B. For Plan Years Beginning on or after January 1, 1994 and before January 1, 2002. Effective for plan years beginning on or after January 1, 1994 and before January 1, 1997, the annual compensation of each member taken into account for any purpose under the system shall not exceed \$150,000 (as adjusted under section 401(a)(17) of the code). For plan years beginning on or after January 1, 1997 and before January 1, 2002, any reference herein to the limitation under section 401(a)(17) of the code shall mean the limit described herein; specifically, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The adjustment to the compensation limit under section 401(a)(17) of the code in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If compensation for any prior determination period is taken into account in determining a member's benefit in the current plan year, the compensation for that prior determination period is subject to the limit described herein as in effect for that prior determination period.
- C. Plan Years Beginning on or after January 1, 2002. The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or the determination period. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit described herein will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

#### **A-2. Section 415 Limits on Accrued Benefits.**

- A. In General. Notwithstanding anything in the retirement system to the contrary, the limitations on benefits and contributions contained in section 415 of the code are

generally applicable to benefits payable under the system effective for plan years after December 31, 1975; except, however, a person who was an active member before October 3, 1973 whose annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1954 (the 1954 code)) does not exceed 100 percent of his annual rate of compensation on the earlier of (i) October 2, 1973 or (ii) the date on which he separated from City service, and such annual benefit is not greater than the annual benefit which would have been payable to the such member on retirement if (i) all the terms and conditions of the system in existence on such date had remained in existence until such retirement and (ii) his compensation taken into account for any period after October 2, 1973 had not exceeded his annual rate of compensation on such date, and in the case of a member who separated from City service prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from service, then such annual benefit shall be treated as not exceeding the limitations of subsection 415(b) of the 1954 code.

- B. Combined Limit. Without negating the generality of C-2(a), for limitation years beginning after December 31, 1975 and before January 1, 2000, if a member participates in one or more defined benefit plans and makes member contributions other than contributions treated as pickup contributions or participates in one or more code section 401(a)-qualified defined contribution plans, or a welfare benefit fund as defined in section 419(e) of the code, under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in section 419A(d)(3) of the code, or an individual medical account, as defined in section 415(l)(2) of the code, which is part of a pension or annuity plan, the member's accrued benefit under the system shall be adjusted to the extent required, if at all, so that the sum of the defined benefit fraction and the defined contribution fraction for any limitation year shall not exceed 1.4 (effective January 1, 1982, 1.0).

(1) Defined Benefit Fraction. The defined benefit fraction for any limitation year is a fraction (a) the numerator of which is the member's projected annual benefit (determined as of the close of the limitation year) under all such defined benefit plans (whether or not terminated), and (b) the denominator of which is (i) the sum of the maximum amount of annual additions to such account which could have been made for each year and for each prior year, and (ii) effective January 1, 1982, the lesser of (A) \$90,000, or the applicable dollar limit under section 415(b) of the code for such limitation year multiplied by 1.25, or (B) for limitation years ending before 1995, the member's average annual compensation for the three consecutive calendar years of active participation, that produce the highest average, multiplied by 1.4.

(2) Defined Contribution Fraction. The defined contribution fraction for any limitation year is a fraction (i) the numerator of which is the total of the amount treated as annual additions, under section 415(c) of the code, to the member's accounts as of the close of the limitation year under all defined contribution plans (whether or not terminated), and (ii) the denominator of which is the lesser of the following amounts determined for the limitation year and for each prior limitation year for which the

member was an employee (regardless of whether any plan was in existence during such year):

- (a) \$30,000, or the applicable dollar limit for each such limitation year, multiplied by 1.25, or
- (b) 35% of the member's compensation, for each such limitation year.

**R E S O L U T I O N N O. \_\_\_\_\_**

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS  
FOLLOWS:

That Dan Luckey is reappointed to the Redevelopment Authority with a  
term ending December 31, 2017

Adopted by Council \_\_\_\_\_, 2013

\_\_\_\_\_  
Francis G. Acosta  
President of Council

Attest:

\_\_\_\_\_  
Linda A. Kelleher  
City Clerk



**R E S O L U T I O N N O. \_\_\_\_\_**

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS  
FOLLOWS:

That Eddie Moran is reappointed to the Recreation Commission with a  
term ending December 31, 2015

Adopted by Council \_\_\_\_\_, 2013

\_\_\_\_\_  
Francis G. Acosta  
President of Council

Attest:

\_\_\_\_\_  
Linda A. Kelleher  
City Clerk

**R E S O L U T I O N N O. \_\_\_\_\_**

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS  
FOLLOWS:

That William Thompson II is appointed to the Diversity Board with a term  
ending April 8, 2016

Adopted by Council \_\_\_\_\_, 2013

\_\_\_\_\_  
Francis G. Acosta  
President of Council

Attest:

\_\_\_\_\_  
Linda A. Kelleher  
City Clerk

**R E S O L U T I O N N O. \_\_\_\_\_**

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS  
FOLLOWS:

That Ann Sheehan is reappointed to the Citizens Advisory Board with a  
term ending December 31, 2015

Adopted by Council \_\_\_\_\_, 2013

\_\_\_\_\_  
Francis G. Acosta  
President of Council

Attest:

\_\_\_\_\_  
Linda A. Kelleher  
City Clerk